

# MINUTES

of the

## COUNCIL OF THE COUNTY OF MAUI

August 25, 2015

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD IN THE COUNCIL CHAMBER, KALANA O MAUI BUILDING, WAILUKU, HAWAII, ON TUESDAY, AUGUST 25, 2015, BEGINNING AT 9:03 A.M., WITH CHAIR MICHAEL B. WHITE PRESIDING.

CHAIR WHITE: This meeting of the County of the Council, the Council of the County of Maui will please come to order.

Mr. Clerk, will you please call the roll.

### ROLL CALL

PRESENT: COUNCILMEMBERS GLADYS C. BAISA, ROBERT CARROLL, ELEANORA COCHRAN, DONALD G. COUCH JR., S. STACY CRIVELLO, G. RIKI HOKAMA, MICHAEL P. VICTORINO, VICE-CHAIR DONALD S. GUZMAN, AND CHAIR MICHAEL B. WHITE.

EXCUSED: NONE.

DEPUTY COUNTY CLERK JOSIAH K. NISHITA: Mr. Chair, there are nine Members present and zero Members excused. A quorum is present to conduct the business of the Council.

CHAIR WHITE: Thank you, Mr. Clerk. And, this morning I'm happy to say that we have opening remarks from Member Gladys Baisa.

### OPENING REMARKS

The opening remarks were offered by Councilmember Gladys C. Baisa.

CHAIR WHITE: Thank you, very nice. And, just a reminder to everyone to please turn off your cellphones. And I'm not sure that I turned mine off. Yes, I have.

Mr. Clerk, let's proceed.

DEPUTY COUNTY CLERK: Mr. Chair, Pledge of Allegiance.

CHAIR WHITE: Pledge of Allegiance. Thank you.

Will you all please rise and join me in the Pledge of Allegiance.

### PLEDGE OF ALLEGIANCE

The Members of the Council, and others in attendance, rose and recited the Pledge of Allegiance.

CHAIR WHITE: Thank you.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with the presentation of testimony on agenda items. We have established limited telephone interactive communication that enables individuals from Hana, Lanai, and Molokai to provide testimony from our District Offices.

Individuals who wish to offer testimony from Hana, Lanai, and Molokai, should now sign up with District Office staff. Individuals, who wish to offer testimony in the chamber, please sign up at the desk located in the eighth floor lobby just outside the chamber door. Testimony at all locations is limited to the items listed on today's agenda.

Pursuant to the Rules of the Council, each testifier may be allowed to testify for up to three minutes. When testifying, please state your name and the name of any organization you represent.

Hana Office, please identify yourself and introduce your first testifier.

Lanai Office, please identify yourself and introduce your first testifier.

MS. DENISE FERNANDEZ: Good morning, Chair. This is Denise Fernandez . . . to testify.

DEPUTY COUNTY CLERK: Thank you.

Molokai Office, please identify yourself and introduce your first testifier.

MS. ELLA ALCON: Good morning. This is Ella Alcon on Molokai and there is no one here waiting to testify.

DEPUTY COUNTY CLERK: Thank you.

Hana Office, are you there?

MS. DAWN LONO: Yes. Good morning. This is Dawn Lono at the Hana Office and Mr. Scott Crawford is here from Na Mamo O Mu`olea to testify on item 15-105.

### PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MR. SCOTT CRAWFORD, NA MAMO O MU`OLEA, (testifying on Committee Report 15-105):

Good morning, Chair and Members of the Council. My name is Scott Crawford, I'm the Secretary of Na Mamo O Mu`olea. And, I'm here today just to testify in support of item 15-105, the lease agreement between our organization and the County.

At the previous, at the Committee hearing a couple weeks ago, I had shared that, because of the revisions to the agreement that were made after our Board had approved, approved the document, we wanted to have a chance to take it back to the Board to review those changes. And, we did so at our meeting on August 12. We looked at the changes that had been made, discussed them, and approved them as a Board.

So, we're now all on the same page as far as this agreement and ready to move forward. And, we look forward to getting it finalized and having a long productive partnership in managing this very special parcel.

I also wanted to just take a moment to express our mahalo and appreciation to Councilmember Carroll, as the representative from Hana. He was involved in the, this process from the very beginning, the formation of the Ad Hoc Committee that the, developed into the nonprofit organization. And, he's just been supportive of the process all the way along for ten years now. So, along with, you know, all the other

Members of the Council, we appreciate everybody's support on this. And, and we just really appreciate Mr. Carroll for his diligence and endurance through all of this.

And, it's come to the point now where we're finally ready to bring it, bring the, that Ad Hoc relationship that we've had into a formal agreement that will endure for generations now. So, it's something I think we can all be proud of and really appreciate all the support. So, mahalo.

CHAIR WHITE: Members, any need for clarification of Mr. Crawford's testimony?

MR. CRAWFORD: And, also I, I want to just mention too, I'm, I'm, I don't think I'll be able to stay for when this item comes up on the agenda. So, I just wanted to let you know. I'm, I'm not going to be able to stay for the whole, for the whole hearing.

CHAIR WHITE: Thank you, Mr. Crawford.

VICE-CHAIR GUZMAN: Chair.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you. That being said, I, we usually have Mr. Crawford on as a resource during the time that items are called in regards to this particular lease.

I do have one question for Mr. Crawford. Would it be not so inconvenient for the organization to submit every two years a, an update to the Council?

CHAIR WHITE: Were you able to hear Mr. Guzman's question?

MR. CRAWFORD: I, I, there is a, a reporting requirement in the grant agreement for the lease which I think would cover that update. I'm not sure exactly what details would be required under that. But, I think that that's actually an annual update. So, you know, whether it's, whether it's annual or every two years, you know, we don't have any problem just submitting a report on our activities and progress.

VICE-CHAIR GUZMAN: Okay, very good. So, yea, it's my understanding it's every two years. And, thank you for that input. As well as I, I'd like to also, you know, just be so appreciative that you guys were patient enough to work with us, at least my Committee, through this long process. And, I'm very happy that we got to the end of the tunnel. And so, with a lot of different obstacles, we were able to make it through.

So, thank you very much Mr. Crawford and aloha to all of those in, in Hana that have really participated in this process. Thank you.

CHAIR WHITE: Members, any further need for clarification?

If not, thank you very much, Mr. Crawford.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, we have 10 individuals who have signed up to testify in the Council chamber. The first person to testify in the chamber is Martin Vasey, testifying on Committee Report 15-91. He will be followed by Erin Lowenthal.

MR. MARTIN VASEY (testifying on Committee Report 15-91):

Aloha, Councilmembers and thank you very much for letting me speak today. My name is Martin Vasey and I'm the owner of Hana Farms, a small seven-acre farm on East Maui where we grow a large variety of fruits, vegetables, and spices.

Our biggest crops are bananas where we harvested over three tons last year, over two tons of papaya, and a ton and a half of lilikoi. But it's extremely difficult to support a small farm doing just wholesale agriculture, so we focus on "value-added" products. We make banana bread, we make jams, jellies and hot sauces, and we sell these at our roadside fruit stand.

I'm also on the board of the East Maui Agricultural Association, and also on the board of the Hana Business Council. I traveled to Wailuku today for two main reasons. And, the first one is that I feel really strongly about this bill. I support this bill. I think it would help a lot of farmers on ag land and East Maui.

The second main reason I came over here today is because I feel that the farmers on East Maui haven't really had much of a say. They haven't been part of this discussion yet. It seems to me that the way this bill is being handled and discussed in Hana, is primarily just in the Hana Community Association and the Hana Advisory Committee.

The usual emails that go out about these County meetings haven't gone out for the last two meetings. The meeting that was held a couple of weeks ago, we didn't, Hana didn't get a, the big email. And, a lot of farmers weren't aware of that Council meeting or that there would be remote testimony. And, I didn't get an email for this one either, so I, I have a feeling that email didn't go out to the larger group.

I know and I've talked to many farmers on ag land here in East Maui, and they just aren't aware of this conversation and they, they feel left out.

I emailed our East Maui Councilmember two weeks ago on the 11th of August, just after I learned that there was a blanket exemption for all of East Maui filed. I, along with many other farmers, who depend on agriculture for a living, felt completely blindsided. We weren't included. There was no communication. There was no warning that this amendment was going to be submitted.

I'm still waiting to hear back from him so that I can ask to have a broader discussion with the people most directly affected by this bill; and that's farmers living and trying to make a living on ag land.

Let me say one more thing about the proposed amendment to exempt East Maui. East Maui have significant hurdles in many ways, and especially when trying to make a living doing agriculture. I think it's still considered a Hawaii State Enterprise Zone. I could see exemptions for certain taxes or government burdens and regulations. But the proposed exemption is a, is an exemption of opportunity, targeted to a specific area, and an area with many existing disadvantages. We need more opportunities in East Maui, not less.

I urge the Council to approve this bill, and to vote no on the amendment to exempt East Maui. Thank you.

CHAIR WHITE: Members, any need for clarification of Mr. Vasey's testimony?

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. Just that the notifications were supposed to have gone out. I'll try to find out what happened to that. And, I did reply to you. I'll try to find out what happened to that too.

MR. VASEY: Thank you very much.

COUNCILMEMBER CARROLL: But, notifications were supposed to have gone out and I really apologize. And, I will find out what happened to them.

MR. VASEY: Great. Thank you.

CHAIR WHITE: Members, any further need for clarification?

Seeing none, thank you for coming all this way, Mr. Vasey.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Erin Lowenthal testifying on Committee Report 15-107. She will be followed by Steve Miller.

MS. ERIN LOWENTHAL, KA HALE A KE OLA HOMELESS RESOURCE CENTERS  
(testifying on Committee Report 15-107):

Good morning, Councilmembers. My name is Erin Lowenthal and I serve as the Chief Executive Officer of Ka Hale A Ke Ola Homeless Resource Centers. I am testifying this morning in strong support of Committee Report 15-07 *[sic]*.

I want to begin by expressing my sincere gratitude. Since my first day on the job, I have found support and encouragement from this body. I've taken your constructive criticism and feedback to heart and implemented necessary changes to ensure this agency is more efficient, more transparent, and more accountable.

Ka Hale A Ke Ola provides a multitude of community resources, primarily for unsheltered individuals and families. But today, I am focused on Hale Makana O Waiale, our 200 unit low-income housing project that provides permanent housing to 751 hardworking Maui County residents; including many nurses, teachers, police officers, and veterans.

The responsibility of ensuring Hale Makana's continued viability is not one I take lightly. Nearly 20 years ago, this County recognized the critical need to build affordable housing. And, in partnership with the State of Hawaii, the U.S. Department of Housing and Urban Development, and private investors, we made it happen. As the cost of living continues to increase, the need to maintain available affordable rental housing is even more underscored. Moving forward, we will not waiver in our stewardship of this vital community project.

I humbly ask that you support your Committee's recommendation. Relieve us of this burden and allow us to move forward with the resources needed to help keep Hale Makana operating safely. Thank you for your time.

CHAIR WHITE: Thank you, Ms. Lowenthal.

Members, any questions or clarification?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Thank you for being here. My, my question, or I'm sure maybe from the Committee, your entity have received monies or grant monies from the County. Can you tell me, is that applicable to this portion, or what is it applicable to?

MS. LOWENTHAL: So, Ka Hale A Ke Ola Homeless Resource Centers receive annual grant allocations, provide for services for unsheltered individuals and families. That is completely distinguished from Hale Makana where we do not receive continual County support. And, they're, they are operated completely distinctly from one another.

COUNCILMEMBER CRIVELLO: Okay, so, so actually it's for your homeless resource centers? Is that what the grant monies are for with the County?

MS. LOWENTHAL: Correct. Yes.

COUNCILMEMBER CRIVELLO: Thank you.

CHAIR WHITE: Any further need for clarification, Members?

Seeing none, thank you very much for coming this morning, Ms. Lowenthal.

MS. LOWENTHAL: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Steve Miller testifying on Committee Report 15-107. He will be followed by Alec McBarnet.

MR. STEVE MILLER, KA HALE A KE OLA (testifying on Committee Report 15-107):

Good morning, Councilmembers. My name is Steve Miller and as President of the Board of Directors of Ka Hale A Ke Ola, I'm here to testify in support of the resolution before you today to forgive a debt owed by KHAKO in the form of a "grant loan" from



the County which partially funded the development of the Hale Makana Affordable Housing Project.

First, I'd like to thank the Housing, Human Concerns, and Transportation Committee for supporting this resolution. And, a special thanks to Stacy Crivello for taking on the daunting task of unraveling the history of this grant loan and all of the issues that confronted Hale Makana working with the housing, Department of Housing and, and KHAKO to bring us to this point today.

The forgiveness of this loan does a couple of things for KHAKO and the County. It helps to provide a stronger financial statement when it comes to requesting Federal, State, and private funds to sustain operations. And, it provides additional cash flow to support maintenance and operations, and to grow a more substantial reserve fund which is particularly important in this area of declining government support for nonprofits and social services. But, it does not replace the federally funded CDBG grants which we will continue to compete for.

You've heard in the past that KHAKO provides emergency and transitional housing and support services for over 1400 individuals, a third of which are children. You've also heard from many of our clients and residents about how they've been able to regain their self-worth and become productive members of the Maui community thanks to KHAKO's staff, its programs and facilities. So, I think it's safe to say that most of you believe that the work that KHAKO provides to Maui's homeless population, and the underlying economic benefits that accrue to the County, it's something that we all believe in.

And, while Hale Makana's 200 rental units provide housing for an additional 750 of Maui's low-income residents, it's a drop in the bucket of what's needed. Most of you would likely support creating more affordable rentals like this. But, to be clear, these types of rental, rent controlled low-income rental housing projects cannot afford to pay traditional debt service. They need to be government subsidized in order to be able to support below a market rent which is why debt service is typically defined as being a lesser of a fixed annual payment or a percentage of available cash flow as it was in the case for Hale Makana.

So, in terms of creating more affordable housing, it's possible with public-private partnerships, low-income tax credit financing. You just need the land that can be leased at a nominal amount. And, most importantly, government funding in the form of grants and not loans. Thank you very much for your consideration of the resolution before you today.

CHAIR WHITE: Thank you, Mr. Miller.

Members, any need for clarification? Seeing none, thank you for being here this morning.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Alec McBarnet testifying on Committee Report 15-107. He will be followed by Doug Wright.

MR. ALEC MCBARNET (testifying on Committee Report 15-107):

Good morning and thank you very much for taking the time to consider the resolution. My name is Alec McBarnet. I'm Treasurer of the homeless resource center and strongly support voting on the resolution. And, I just really want to take the opportunity to thank you all very, very much for your support of our organization. So, that's all I have to say this morning. Thank you.

CHAIR WHITE: I guess there's not much need for clarification on that testimony. Pretty, pretty clear. Thank you very much, Mr. McBarnet.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Doug Wright testifying on Committee Report 15-107. He will be followed by Youlida Yuruw.

MR. DOUG WRIGHT, KA HALE A KE OLA (testifying on Committee Report 15-107):

Good morning, Chair and Councilmembers. I am also a board member for Ka Hale A Ke Ola and I'm also obviously a resident, and so I'm wearing two hats before you today. This is support for the resolution for the forgiveness of the debt.

I'll take a slightly different tact than my fellow board members. I find it interesting that there is such important and nearly daily conversation about the need for affordable housing in the State, and particular, the County of Maui. I also find it interesting, but, my gosh, there are a lot of words being said and a lot of investigation, a lot of report to be generated; especially out of this State.

But, I think that's, it's more important that the County, that the Members, are actually taking an affirmative step. This is an action towards addressing this issue and trying to conquer the challenges. It's not easy. But, the resolution before you today is an extremely important resolution in taking a step towards a committed, established, improved organization, to meeting the needs for affordable housing. That's important and should not be underscored. And, I appreciate you taking the time to consider this this morning.

I, finally, recognize that this is a, a thankless job. It doesn't get a lot of support from private entities, at least not in the form of coming in here and speaking to you. And, it's something that I applaud you for taking the initiative today and the bravery for your support of this resolution. So, thank you.

CHAIR WHITE: Thank you, Mr. Wright.

Members, any need for clarification? Seeing none, thank you for being here.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Youlida Yuruw testifying on Committee Report 15-107. She will be followed by Stacey Moniz.

MS. YOULIDA YURUW (testifying on Committee Report 15-107):

Good morning, everyone. My name is Youlida Yuruw. I just told the person that I sign up, you can call me Yoyo, cause Youlida and Yuruw. I'm here about the case number 15-07 [sic]. This is my first time over here and I'm a minister for a Micronesian that was at Lao United Church of Christ.

I live at the Hale Makana since 1999. The time I was there, the rent was only 160, 525 for a two-bedroom house. And, then they move me up to the four-bedroom which is that time was 620, 675. When I receive the letter last week, the rent went up to 1,055. So, it's . . . I have some friends over here. I'm a Micronesian. I'm not a Marshallese, I'm not a Chuukese, no you don't discriminate me. Being a loving and caring community in this Maui, it's helped me to understand how to come in here and speak what I feel like I need to help with my family.

I'm married to a husband from another island in Micronesian. We have five boys and that's why we qualify to live at the low-income house. Today, when the rent went up, I really stressing because I work for Wailuku Elementary School as a EA, just an on-call. The payment is not enough for my rent. My husband just recently, they have to

cut his hour. So, our rent is really, I cannot afford it. That's why I'm here asking for mercy to reconsider the rent that went up. I'm a tenant that really caring and willing to help a lot of Micronesian that English is a language, is our second language.

I'm not trying to say anything, but just the fact that give us a chance to understand how we can live in this community and make us be part of this County; especially for my family that I have five boys. I try to make them, one of my son just graduated two years ago. He cannot go college because he need to works to help me and my husband to pay our rent. Thank you. That's what I want to say, and really ask for reconsideration about the rent. Thank you.

CHAIR WHITE: Thank you, Ms. Yuruw.

Members, any need for clarification?

Seeing none, Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Stacey Moniz testifying on Committee Report 15-107. She will be followed by Sydney Smith.

MS. STACEY MONIZ, WOMEN HELPING WOMEN (testifying on Committee Report 15-107):

Good morning, County Council, Chair.

CHAIR WHITE: Good morning.

MS. MONIZ: I think the best way to keep my message short is just to read my testimony, otherwise, my Portuguese blood runs away with me. I'm the Executive Director at Women Helping Women and I'd like to offer strong support of Ka Hale A Ke Ola and Hale Makana O Waiale as you decide to forgive the County's loan to this important organization on Maui.

Working with victims and survivors of domestic violence, I have seen how critical safe, and affordable housing is to these families. Simply put, housing equals safety. Ka Hale A Ke Ola, Na Hale O Wainee, and Hale Makana O Waiale are very often part of the safety plan we work on with our women. There are very few options for some of the women we serve and we continue to be grateful for all of KHAKO's programs and the choices that they afford our families.

When you consider the thousands of Maui residents who have utilized just the Hale Makana housing, I believe this is an investment that the County of Maui can be very proud of. In fact, I urge you to consider the exponential impact of our, on our community that this program has had. People in housing can obtain and maintain their jobs, children do better in school, families are strengthened. These are positive multipliers for a successful community.

I bring with me today, and I've handed out copies of additional written support from some of our staff members at Women Helping Women who could not be here today.

And, I'm really grateful that you're considering this. I think it's a huge positive thing for the County of Maui to do. Thanks.

CHAIR WHITE: Thank you, Ms. Moniz.

Members, any need for clarification? Thank you very much.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Sydney Smith testifying on Committee Report 15-91. She will be followed by Eve Hogan.

MS. SYDNEY SMITH, MAUI COFFEE ASSOCIATION (testifying on Committee Report 15-91):

Good morning, Chair.

CHAIR WHITE: Good morning.

MS. SMITH: Good morning, Council. My name is Sydney Smith. I'm the President of the Maui Coffee Association and I own Maliko Estate Coffee Farm in Makawao. I'm also a member of the Ag Working Group.

I have spoken to many farmers over the past two weeks. Some had a question about the retail, word retail used in the language of EAR-7. As used in the ordinance, it means a direct sale of agricultural products to a consumer. It does not mean the passage of this bill will lead to Macy's department stores opening up along the road to Hana.

Other concerns voiced to me were; if Hana can be exempted from regulations, can Haiku be exempted? What about Kula? Is it possible to just pick and choose passages we don't like in the County Code and press our Council person to exempt us from those things?

I think the answer must be, yes, it is possible. But the larger issue is, should we?

Allowing Hana to have no regulation will actually lead to more growth. The State law has no limits on the size of the structure. There are no parking provisions. Origin of produce can be anywhere in the State of Hawaii. So, if the testifier from Hana on August 7, was seeking to limit growth in the Hana district, something I also support, an exemption will have the opposite effect.

We're all paddling the same canoe here in Maui County, whether we live in West Maui, Molokai, Lanai, or Hana. And when a few paddlers on one side stop paddling, you start spinning in circles and you never get anywhere.

Regulation is a good thing, as hard as it is to comply at times. I've had a few conversations with property owners here who feel they should have the right on their own property to do whatever they want to, whatever that may be. But we, as citizens, wrote zoning laws to keep a munitions factory from being built next to a grade school. Something the most ardent libertarian would see as reasonable.

I for one believe that in recent years, the zoning laws have gotten too restrictive. The State law that EAR-7 is based on was a correction to overly stringent zoning. The State left it up to the counties if they wanted to add back more restrictions, and that's what EAR-7 does. With input from actual farmers and ranchers, this was written from a practical standpoint.

I still support EAR-7. And, I do not support setting a dangerous precedent where portions of Maui can opt out of our County Code. Thank you.

CHAIR WHITE: Thank you, Ms. Smith.

Members, any need for clarification? Seeing none, thank you for being here this morning.

MS. SMITH: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Next person to testify is Eve Hogan testifying on Committee Report 15-91. She will be followed by Monique Yamashita.

MS. EVE HOGAN (testifying on Committee Report 15-91):

Good morning. I'm Eve Hogan, a member of the Ag Working Group, the Maui Coffee Association, the Flower Growers Association, and the owner of the Sacred Garden in Makawao. However, I'm speaking on behalf of myself as a concerned citizen of Maui County and I'm speaking in favor of EAR-7.

The Sacred Garden is a retail agricultural business open to the public seven days a week. I offer a beautiful nursery and peaceful sanctuary to the public, free of charge, as a community service and an example of the spirit of aloha. A place where people can come, get a cup of coffee for free, I mean, hot, I'm sorry, a free cup of tea or hot chocolate, and bask in the beauty of nature in a safe environment.

This is not a problem in the community, it is a service. It has become a beloved destination for tourists and locals alike, as well as schools, churches, and nonprofit groups.

The Garden is free to the community, but it is not free to my husband and I. We have to pay a lot of money to keep this garden open. So I have tried to find creative and symbiotic ways to monetize this service. I thought I could sell my friend Annette's locally made salad dressings, and my neighbor Maliko Coffee, or Maliko Estate Coffee, Maliko Estate's Coffee, but currently that's illegal. A farm is only allowed to sell on ag land, agricultural products produced from that farm. EAR-7 makes it legal to support neighboring farms selling Maui County ag rather than just my own.

I thought I could add some garden-related souvenir items for people to purchase, however, based on current zoning laws, that is also illegal. It's illegal to sell anything other than agriculture.

This is a beautiful concept, but a near impossibility for economic survival for several reasons: (1) Tourists can't take ag products home; and (2) For local business, as a nursery on the road to the middle of, in the middle of nowhere, I have to compete with the big box stores who use agriculture as their "loss leader" selling plants at retail prices for the exact same price that I can buy them for whole, from, from wholesalers. So, a small business, it's, as a small business, it's impossible to compete with them on price and still keep the doors open, unless I can do the same thing; and (3) The local population also has access to every farmer with an entrepreneurial bent who can post their things on Craigslist.

EAR-7 makes it legal for a farmer to sell a regulated amount of logo and value-added items.

Inspectors then came to my garden and told me that it was illegal because my 500-square-foot retail space should have been under 300-square-feet as current zoning law reads. They told me if I put a table out in front and sell my plants from the table instead of from the counter inside, that that would be complying with the law. However, EAR-7 makes it that small already existing real, retail space legal.

So, then I thought well, maybe I could put a fruit stand out front because then I could sell them my fruit out there in front of the garden. And, I named it "Eve's Forbidden Fruit", ironically thinking that might be the only thing not forbidden. However, I was wrong. The County came and said that my 18-square-foot rolling cart was illegal and I had to remove it from the road.

When I complained to the County about the laws, I was told, "If we let you do this small retail business on ag land, Long's Drugs Stores are going to pop up all over the North Shore". I started the Sacred Garden 10 years ago, and not one single Long's Drug Store has popped up along the North Shore.

They told me I would have to hire a consultant and get a Special Use Permit. The consultant quoted me 20 to \$30,000 for that assistance.

EAR-7 is not a free for all allowing people to do what none of us want to see done. However, EAR-7 is a huge step in allowing small farms to legal, legally provide small services that make a big difference on Maui, and I urge you to please pass it. Thank you.

CHAIR WHITE: Thank you, Ms. Hogan.

Members, any need for clarification? Seeing none, thank you for being here this morning.

COUNCILMEMBER COUCH: Mr. Chair.

CHAIR WHITE: Oh, I'm sorry. Ms. Hogan.

Mr. Couch.



COUNCILMEMBER COUCH: I don't know if you're aware, but I didn't get from your testimony whether or not you were supportive of the proposed amendment that's on the table.

MS. HOGAN: I'm not supportive of the proposed amendment. I mean, one of my things, my favorite thing about the road to Hana is the fruit stands. I love them. And, you know, and truly if the real law that we have now is enforced, most of them would disappear.

And, this law doesn't allow just anything to happen. It's very regulated, small, size controlled. It's, it's even going to impact me in a negative way cause I'm going to have to abide by it also. I don't like it either. I would rather have the State law, honestly, cause you can do anything with that one.

COUNCILMEMBER COUCH: Okay. Thank you, Chair.

CHAIR WHITE: Members, any other need for clarification?

Seeing none, Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Monique Yamashita testifying on Committee Report 15-107. She will be followed by John Decker.

MS. MONIQUE YAMASHITA, WOMEN HELPING WOMEN (testifying on Committee Report 15-107):

Hi, Good morning, Councilmembers. Thank you for hearing my testimony today. My name is Monique Yamashita and I'm the Deputy Director of Women Helping Women. I'm here today in support of Hale Makana O Waiale, to ask that the County forgive the debt that the agency has to pay.

As a shelter director for Women Helping Women, I can't tell you how many women and children have walked through our doors, and they don't have a place to stay. And, they get to stay with us for a little while, but they don't get to stay with us for very long. And, after they leave our shelter, they need a safe place to stay; and not just safe but affordable. And, you know, there isn't that much affordable housing on Maui. So, I can't tell you how wonderful it is to have Ka Hale A Ke Ola as a resource for our women and children to be able to go to and have a place to stay, and then in the hopes that they can transfer or go from KHAKO to Hale Makana.

So, I'm in support of that, of that agency. I ask that you forgive that debt. It's a super great investment for our County, for all of our vulnerable citizens that we have in our community. And, so I do ask that you forgive that loan. And, I am support of Hale Makana. Thank you.

CHAIR WHITE: Thank you, Ms. Yamashita.

Members, any need for clarification? Seeing none, thank you for being here this morning.

MS. YAMASHITA: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is John Decker testifying on Committee Report 15-107. He will be followed by Annette Niles.

MR. JOHN DECKER, KA HALE A KE OLA (testifying on Committee Report 15-107):

Good morning. My name is John Decker. I'm the Board Secretary of Ka Hale A Ke Ola. And, I'm here basically to simply, to thank you for your, the Committee's recommendation to forgive the debt for Hale Makana. It will help us greatly in the support of our mission.

I'd also like to, I am the longest, continuous service person involved with Ka Hale A Ke Ola. I joined the board within a couple of months of the organization's founding, I believe in January of 1987. And, I want to thank the Council and the, the County as a whole for its support over all these years. It's been essential to our mission, and essential, I think, in our efforts to help the homeless on this island. Thank you.

CHAIR WHITE: Thank you.

Members, any need for clarification? Seeing none, thank you for being here, Mr. Decker.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Annette Niles testifying on Committee Report 15-91. She will be followed by Terry Kristiansen.

MS. ANNETTE NILES (testifying on Committee Report 15-91):

Good morning, Chair.

CHAIR WHITE: Good morning.

MS. NILES: Good morning, Council. My name is Annette Niles, farmer, rancher. I'm on the Ag Working Group. I'm here to testify on, on 15-91 which is EAR-7. And, I am totally for EAR-7 and, you know, for the people that really don't understand what added-value products mean.

You know, for the people of Hana, I think they really didn't understand what the bill was all about cause it was mentioned to me about having things from the Philippines and China. And, this bill right now is to protect that happening. We want things from Maui County, not from, from foreign countries and what have you. But I'm in favor of EAR-7. I'm here to talk about myself but I'm in favor of this bill. Thank you.

CHAIR WHITE: Thank you, Ms. Niles.

Any need from clarification? Seeing none, thank you for being here this morning.

MS. NILES: Thanks.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Terry Kristiansen testifying on Committee Report 15-91. She will be followed by Pamela Tumpap.

MS. TERRY KRISTIANSEN (testifying on Committee Report 15-91):

Good morning, Chair.

CHAIR WHITE: Good morning.

MS. KRISTIANSEN: Good morning, Councilmembers. My name is Terry Kristiansen and I am speaking on behalf of myself. I live in upper Nahiku, in the Hana area. And, I am here in support of the bill as it stood originally. I prefer to leave the amendment out.

I think that with the designation of scenic highway for Hana Highway and for the support that we have gotten from the State and County for small business grants, the

tourist industry is considered a valid form of income. And, when people come out to the Hana area, they do look forward to being able to stop; preferably not to be sick at the side of the road, but to actually talk story with some of our local residents.

These stands that have come up on ag land, have been very beneficial to the tourist industry. I have a Bed and Breakfast in Nahiku. And, I know from all of our visitors that they love, they love Hana farms for one. That's one of the first things that always comes up. But, they also love talking story and having local food at all of the roadside stands.

And, I would encourage you to pass the bill. If it needs to go back to Committee, we'd love to see Mr. Guzman out in our area again. We'd love to be able to talk story a little bit more with a little more advance notice and more publicity, so that we can gather the people who are going to be affected by this. Thank you for your time.

CHAIR WHITE: Thank you, Ms., Ms. Kristiansen.

Members, any need for clarification? Seeing none, thank you for being here this morning.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Pamela Tumpap testifying on Committee Reports 15-91, 15-99, and 15-107. She will be followed by Rosemary Robbins.

MS. PAMELA TUMPAP, MAUI CHAMBER OF COMMERCE (testifying on Committee Reports 15-91, 15-99 and 15-107):

Aloha and good morning, Chair and Members of the County Council. Quick question, may I have three minutes on each item; not that I'm going to take three minutes on each. Awesome.

The first item I'd like to address is 15-99. I failed to mention, I'm President of the Maui Chamber of Commerce.

And, on the unfunded liabilities, that we really wish, the Maui Chamber of Commerce really wishes to applaud the County Council for addressing and continuing to address our portion of the State unfunded government employees health and benefits liabilities. This has been an ongoing issue. Last I heard, and to be honest with you, I haven't kept up with it of late, but we were at around \$27,000 per every man, woman,

and child in the State. So, we appreciate the efforts to understand where this is at to make payment on what's due, and to have the State look at accurate reporting on this.

And, so then if I can move over to the next item which is 15-99, or excuse me, 15-107. We all know that homelessness is a huge problem, and we all know about the amazing work that Ka Hale A Ke Ola has been doing. We know they're a needed resource in this community. And, I don't think that the County or the community ever intended to see this organization with such a huge unfunded liabilities debt because they provide such great service to us. So, we applaud the Council for looking at waiving this debt, and ask for forgiveness of the debt.

And, then lastly, I wanted to testify on 15-91, EAR-7, and first commend the Committee for working on this. This has been something that's been in their Committee for nearly two years. We feel that it is very much in line with the County and State's sustainability goals. It's helped support sustainable agriculture. It expands many opportunities for farm operations and it opens up more opportunities for value-added products.

We need, you know, looking at the Made in Maui County Festival, we see such a need. People are very interested in Made in Maui County products. The residents are thrilled when they see more. The visitors are thrilled when they see more. And, people look for more opportunities to find them. And, this helps them find those products, also in settings that show how we go from farm to table, that teach people about sustainability and help them connect the land with the food and the other products that are derived from the land.

So, we really feel this is important. It helps promote our nitch manufacturing business. And, this is something very critical to all of us because this is where Maui and Hawaii can excel and there's real opportunities. So, it'll help us achieve our exporting goals by not only gearing companies up to sell more locally, that helps prepare them to then export statewide and into mainland domestic markets and international markets.

We also feel that this exposure creates many opportunities for our visitors. And, you know, again it promotes the Maui brand.

We feel that it creates many opportunities for our youth. So many of our youth who grew up in farming operations are wondering what their opportunities are, and sustainable ag is really important. And, this gives them more opportunities that connect them other sales opportunities.

And, that's really important because the youth, you know, many of them are coming back from college. And, they're on the mainland and they're saying, including my daughter, love to come back home but I'd have to double my salary to live on Maui. And, that's tough. And especially in an ag operation, that's really tough. So, all opportunities to help our agricultural producers are fantastic.

It's also great that this is more in line with the direction that the State has already moved into. And, we feel that it's just good all around. To be honest with you, so much work has been done on this thus far, we'd like to see this bill move forward, not be sent back to Committee because we think it's moving in the right direction.

And, on that note, I'd hate to see exempting a specific area for these, from these great opportunities. We think it's great for business.

CHAIR WHITE: Thank you, Ms. Tumpap.

Members, any need for clarification? Seeing none, thank you for being here this morning.

MS. TUMPAP: Thank you.

COUNCILMEMBER HOKAMA: Question.

CHAIR WHITE: Oh, sorry. Mr. Hokama.

COUNCILMEMBER HOKAMA: So, hearing your comments, what do you tell your members that have business and commercial zoning? Because this will impact their ability to either get their spaces leased or rented, or as a tenant, to sell those products. So, what do you tell your members in those two categories that this is going to impact?

MS. TUMPAP: Our members that are in commercial zoning?

COUNCILMEMBER HOKAMA: And business, yeah.

MS. TUMPAP: You mean those that are renting out space in commercial zoning, because?

COUNCILMEMBER HOKAMA: Yeah, cause now they have another competition.

MS. TUMPAP: Yeah, well you know, at the Chamber of Commerce we believe in competition. We believe in market forces. So, you know, yes, we realize that some of our retail stores are going to have more competition for those products. But, you

know, in competition you have to look at what your competitors are doing. So, you know, we, we believe in market forces.

This is another avenue for selling those, for selling those kinds of products and we think it's a good avenue. It's actually in line with supporting something that we hold near and dear to our heart which is sustaining agriculture in Maui.

COUNCILMEMBER HOKAMA: As well as, again, if this bill goes through, what is permitted on ag? You know, it's, it's going to impact assessments and taxation.

MS. TUMPAP: Yes.

COUNCILMEMBER HOKAMA: That's not an issue for you guys either, huh?

MS. TUMPAP: Well, in, in terms of, you, I haven't seen what the rates will be so I'm, I can't qualify that in terms of whether that's going to be an issue for us or not. But, we understand that it is, you know, that likely there are going to be changes. And, I think you've heard from many agriculture producers and people who this bill would support being in favor of it.

And, to be honest with you, we also, not me personally, but my other half has a nursery business. This bill can benefit many of the local farmers who are doing different types of products. So, I think that anytime, you know, in terms of competition, any new business can come up so people are always dealing with new markets all the time; that's a constant. But, and then obviously, some fall off and don't make it. And, our goal is to support ag. I think this is a winning solution to help support ag, and I think it's a good thing.

Yes, if it changes the real property taxes or how you're looking at the ag tax valuations, that's something that as you move into more commercial opportunities, I can see where the County would say that's fair. What the rates will be and how we'll feel about those rates at that time, I can't say at this time unless that's known now and you can share it with me.

COUNCILMEMBER HOKAMA: Okay. We appreciate your response. I would think your businesses would have preferred answers before decisions. Thank you, Chairman.

CHAIR WHITE: Any other need for clarification, Members? Seeing none, thank you for being here this morning.

MS. TUMPAP: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Rosemary Robbins testifying on Committee Report 15-110 and County Communication 15-221. Ms. Robbins is the last individual who has signed up to testify in the Council chamber.

MS. ROSEMARY ROBBINS (testifying on Committee Report 15-110 and County Communication No. 15-221):

Good morning, everybody.

CHAIR WHITE: Good morning.

MS. ROBBINS: I hope you stayed dry over the weekend. In terms of page 5 in our agenda today, item number 15-110. And the request, it's a first reading today authorizing the Mayor to enter into an intergovernmental agreement with the State Department of Accounting and General Services to establish a sewer line maintenance and repair program at the Lahaina Civic and Recreation Center.

You saw this morning's paper. You have a clue of what happened with sewer systems on Oahu over the weekend. God help us, use to live and teach on that island. Those manhole covers that are bobbing up and down because the system is overstressed over there. Makes me wonder who is going to be doing the actual work on this one. I don't know that, but it certainly bares looking into and especially since this is a first reading today.

Then over on page 7 of this morning's agenda, item number 15-221. Councilmember Cochran transmitting a proposed resolution entitled "URGING THE BOARD OF DIRECTORS FOR THE MAUI REGION OF HAWAII HEALTH SYSTEMS CORPORATION TO REQUIRE TRANSPARENCY REGARDING RATE SETTING FOR PATIENT SERVICES". Amen. Transparency for anything that we're going to be doing. Why wouldn't we not want to share that, especially with the people who are going to be funding it; our taxpayers?

Going back over the whole of this, I looked and discovered that, speaking of transparency, there are six items on today's agenda that are going to be having executive meetings which leaves people out. I would love to think that maybe, other than just leaving out the process as well as the people, I understand we don't want to have any character misunderstand, standings on that. But, it would seem that maybe partial redactions would still allow people to be able to understand what the process



is without having mud slung at anybody. So, I'd like to think, that's something that might be worked on.

And, then there's another three items in here saying not to exceed. We went over that again, and again, and again as proposals for money spent out just keep increasing even though it says not to exceed those monies.

So, we've got a population here that is very concerned about the fact that truths, necessary truth, in terms of process that's being denied to them. Please, don't continue that. Thank you.

CHAIR WHITE: Thank you, Ms. Robbins.

Members, any need for clarification? Seeing none, thank you for being here this morning.

MS. ROBBINS: You're welcome.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, there are no further individuals signed up to testify in the Council chamber. If there are any additional individuals in the Council chamber or at the District Offices who would like to offer testimony, please identify yourself to the appropriate staff and proceed to the testimony lectern or District Office phone at this time.

Hana Office, are there any additional testifiers?

MS. LONO: The Hana Office has no one waiting to testify.

DEPUTY COUNTY CLERK: Thank you.

Lanai Office, are there any additional testifiers?

MS. FERNANDEZ: There is no one waiting to testify on Lanai.

DEPUTY COUNTY CLERK: Thank you.

Molokai Office, are there any additional testifiers?

MS. ALCON: There's no one here on Molokai waiting to testify.

DEPUTY COUNTY CLERK: Thank you.

Mr. Chair, there are no other individuals in the District Offices nor the chamber who wish to offer testimony.

CHAIR WHITE: Thank you, Mr. Clerk.

And, I see that we have received some written testimony. Members, without objection, we'll enter the written testimony into the record.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY  
RECEIVED FROM THE FOLLOWING WERE MADE A PART  
OF THE RECORD OF THIS MEETING:

1. Martin Vasey, Hana Farms;
2. Stacey Moniz, Women Helping Women;
3. Valerie Ching-Johnson, Women Helping Women;
4. Misty Bannister, Women Helping Women;
5. Jimmy Dadian, Women Helping Women;
6. Kari Seiler, Women Helping Women;
7. Jennifer Esther Brown, Women Helping Women;
8. Sydney Smith, Maui Coffee Association;
9. Eve Hogan, The Sacred Garden;
10. Father Gary Colton, Ka Hale A Ke Ola;
11. John Blumer-Buell;
12. Keku Akana, Dr. John Decker, Jeanne Abe,  
Mary Lou Mellinger, Deb Lynch, Kit Hart, Jean Fiddes,  
Reverend Linda Decker;
13. Joseph D. Pluta;
14. Robert Collesano, Mental Health America;
15. Burton D. Gould;
16. Paula Ambre, The Maui Farm, Inc.;
17. Lisa Darcy, Ho'omoana Foundation; and
18. Maude L. Cumming, Family Life Center.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, without objections, we'd like to request closing public testimony at this time.

CHAIR WHITE: Oh, thank you. Without objections, we'll close public testimony.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you. So ordered.

Now we can proceed, Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with minutes.

### MINUTES

The minutes of the Council of the County of Maui's regular meeting of June 5, 2015, regular meeting of June 19, 2015, and special meeting of June 22, 2015 were presented at this time.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I'D LIKE TO MOVE TO APPROVE THE REGULAR MEETING  
OF JUNE 15, 2000 AND, NO, JUNE 5, 2015; REGULAR  
MEETING MINUTES OF JUNE 19, 2015; AND THE SPECIAL  
MEETING MINUTES OF JUNE 22, 2015.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Mr. Victorino.

Mr. Guzman.

VICE-CHAIR GUZMAN: Nothing further. Thank you, Chair.

CHAIR WHITE: Thank you.

Any discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with committee reports.

### COMMITTEE REPORTS

#### COMMITTEE REPORT

NO. 15-98 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Resolution 15-97, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL HAWKINS DELAFIELD & WOOD LLP, FOR THE COUNTY OF MAUI 2015 GENERAL OBLIGATION BOND ISSUANCE," be ADOPTED; and
2. That County Communication 15-202, from the Director of Finance, be FILED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, MOVE THAT COMMITTEE REPORT 15-98 WITH ITS RECOMMENDATION BE ADOPTED.

COUNCILMEMBER VICTORINO:

I SECOND THE MOTION, MR., MR. CHAIR.

CHAIR WHITE: We have a motion from Mr. Hokama and a second by Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: No further discussion.

CHAIR WHITE: Any discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", and zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-97.

COMMITTEE REPORT

NO. 15-99 - BUDGET AND FINANCE COMMITTEE:

Recommending that Bill 55 (2015), entitled "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES – SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2016, POST-EMPLOYMENT OBLIGATIONS FUND," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, MOVE THAT 15-99 WITH ITS  
RECOMMENDATIONS BE ADOPTED.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Hokama and a second by Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: This action by Council would refinance our, some of our existing debt, particularly with the Kihei Police Station project, and create sufficient savings for the County to take this action at this time. Thank you.

CHAIR WHITE: Thank you.

Any further discussion? Mr. Couch. Okay, thank you.

All those in favor, please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes" and zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 55 (2015).

COMMITTEE REPORT

NO. 15-100 - COMMITTEE OF THE WHOLE:

Recommending that the correspondence dated February 25, 2015, from the Department of the Corporation Counsel, requesting consideration of the possible settlement of Alvin F. Jardine, III v. State of Hawaii, et al., Civil 13-1-0062(2), be FILED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank, thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN THE  
COMMITTEE OF THE WHOLE COMMITTEE REPORT 15-100.

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. On August 7, 2015, your Committee met to consider a proposed resolution to authorize the Department of Corporation Counsel to settle Alvin F. Jardine, III v. State of Hawaii, et al., Civil No. 13-1-0062(2).

Your Committee notes that the complaint alleges emotional distress, physical suffering, and general and special damages from the incarceration of Alvin F. Jardine, III, relating to his conviction for several 1990 felonies, which was later vacated.

Your Committee further notes that Section 3.16.020(B) of the Maui County Code requires Council authorization for any settlement in excess of \$7,500.

A Deputy Corporation Counsel provided a brief overview of the case. She noted in 1991, Mr. Jardine was convicted of sexual assault and related offenses and sentenced to serve 20 years in prison. In 2011, the Hawaii Innocence Project filed a motion for a new trial on the basis that newly analyzed mucus evidence did not match Mr. Jardine's DNA. The motion for a new trial was granted, and Mr. Jardine sued the County, alleging malicious prosecution.

Following an executive meeting, your Committee reconvened in regular session. Based on the information received, your Committee decided against authorizing settlement of this case.

Your Committee voted 6-0 to recommend filing of the correspondence.

I ask for the Council's support for your Committee's recommendations. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Guzman.

Members, any further discussion? All those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

COMMITTEE REPORT

NO. 15-101 - COMMITTEE OF THE WHOLE:

Recommending that Resolution 15-98, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 1843115 OF ELEANOR KONDO," be ADOPTED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN THE  
COMMITTEE OF WHOLE FOR REPORT 15-101.



COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. On August 4, 2015, your Committee met to consider a proposed resolution to authorize the Department of Corporation Counsel to settle Claim 1843115 of Eleanor Kondo.

Your Committee notes that the claims alleges bodily injuries, vehicular damage, and rental car reimbursement cost as a result of a motor vehicle incident on Haleakala Highway on April 13, 2011, involving a County vehicle.

A Deputy Corporation Counsel provided a brief overview of the claim. She noted Eleanor Kondo was driving Upcountry on Haleakala Highway. At a, at a sharp turn in the highway, a County vehicle was heading down, towing a trailer. Because of the sharpness of the turn, the driver of the County vehicle was not able to negotiate the turn without crossing into the other lane, and Ms. Kondo's vehicle was damaged by the trailer. The County was previously resolved of the portion of the claim regarding the vehicle and the rental car reimbursement. The Department of Corporation Counsel is seeking authorization for \$10,500 to settle the remaining portion of the claim, for the bodily injuries alleged sustained by Ms. Kondo as a result of the incident.

Following an executive meeting on this matter, your Committee voted 6-0 to recommend the adoption of the proposed resolution to authorize the Department of Corporation Counsel to settle the claim for 10,500.

I ask for the Council's support for your Committee's recommendation.

CHAIR WHITE: Thank you, Mr. Guzman.

Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-98.

COMMITTEE REPORT

NO. 15-102 - COMMITTEE OF THE WHOLE:

Recommending that Resolution 15-99, entitled "AUTHORIZING SETTLEMENT OF KYOKO ARMSTRONG-NISHIOKA V. COUNTY OF MAUI, DISABILITY COMPENSATION DIVISION CASE NO. 7-11-01318," be ADOPTED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS OF THE  
COMMITTEE OF WHOLE FOR REPORT 15-102.

COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. On August 4, 2015, your Committee met to consider a proposed resolution to authorize the Department of Corporation Counsel to settle Kyoko Armstrong-Nishioka v. County of Maui, Disability Compensation Division Case 7-11-01318.

*(Councilmember Baisa was excused from the meeting at 10:05 a.m.)*

VICE-CHAIR GUZMAN: A Deputy Corporation Counsel provided a brief overview of the case. He noted that the plaintiff was a nutritional program assistant with the Department of Housing and Human Concerns in July 2011, when the alleged incident occurred. According to the Deputy, she was preparing food for delivery when she was hit on the side of her head by a falling cooler, sustaining injuries as a result.

Following an executive meeting on the matter, your Committee voted 6-0 to recommend adoption of the revised proposed resolution incorporating nonsubstantive revisions to authorize the Department of Corporation Counsel to settle the matter under the terms proposed in executive meeting. Thank you, Chair.

I ask for your support. I ask the Members for their support of this motion.

CHAIR WHITE: Thank you, Mr. Guzman.

Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN,  
COUCH, CRIVELLO, HOKAMA, VICTORINO,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes"; zero "noes"; and one "excused", Ms. Baisa.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-99.

COMMITTEE REPORT

NO. 15-103 - COMMITTEE OF THE WHOLE:

Recommending that Resolution 15-100, entitled "AUTHORIZING SETTLEMENT OF JOHN M. NEWELL V. COUNTY OF MAUI, DISABILITY COMPENSATION DIVISION CASE NO. 7-13-01509," be ADOPTED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN, IN THE  
COMMITTEE OF THE WHOLE REPORT NO. 15-103.

COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION.

*(Councilmember Baisa returned to the meeting at 10:07 a.m.)*

CHAIR WHITE: We have a motion from Mr. Guzman and a second by Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. On August 4, 2015, your Committee met to consider a proposed resolution to authorize the Department of Corporation Counsel to settle John M. Newell v. County of Maui, Disability Compensation Division Case No. 7-13-01509.

Your Committee notes that the claims alleges Mr. Newell sustained work related injuries on August 15, 2013.

A Deputy Corporation Counsel provided a, a brief overview of the case. He noted that Mr. Newell was a housing quality standards inspector with the Department of Housing and Human Concerns in August 2013, when the alleged incident occurred. According to, to the Deputy, Mr. Newell fell on a wet sidewalk while inspecting a unit at Haleakala Gardens in Kihei, hitting his arm.

Following an executive meeting on the, on the matter, your Committee voted 6-0 to recommend adoption of the revised proposed resolution incorporating nonsubstantive revisions to authorize the Department of Corporation to settle this matter under the terms proposed in executive meeting. Thank you, Chair.

I ask the support of the Members for this motion.

CHAIR WHITE: Thank you, Mr. Guzman.

Any further discussion on this item, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-100.

COMMITTEE REPORT

NO. 15-104 - COMMITTEE OF THE WHOLE:

Recommending that Resolution 15-101, entitled "AUTHORIZING AN INCREASE IN FUNDING RELATED TO THE EMPLOYMENT OF SPECIAL COUNSEL HUNTON & WILLIAMS LLP, IN HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, CIVIL NO. 12-00198 SOM BMK," be ADOPTED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO, I MOVE TO ADOPT THE RECOMMENDATIONS  
OF COMMITTEE OF THE WHOLE IN REPORT NO. 15-104.

COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. On August 7, 2015, your Committee met to consider a proposed resolution to authorize the Department of Corporation Counsel to settle Hawaii Wildlife Fund, et al., v. County of Maui, Civil No. 12-00198 SOM BMK, and a proposed resolution to raise the compensation limit for the employment of special counsel by additional 500,000 for trial preparation, motions, trial, and appeal processes, and for the total compensation not to exceed 2,750,000.

Your Committee notes the First Amended Complaint in the case alleges violations of the Federal Water Pollution Control Act, also known as the Clean Water Act, and other laws, arising of the County's operations of the injection wells, the Lahaina Wastewater Reclamation Facility, and seeks injunctive relief, penalties, and attorney's fees and costs.

The Corporation Counsel provided a brief update on the status of the case and emphasized the importance of special counsel's preparations, participation as well.

Following an executive meeting on the matter, your Committee deferred a recommendation on the proposed settlement resolution, pending further discussion.

Your Committee voted 6-0 to recommend adoption of the proposed special counsel compensation resolution.

I ask for the Council's support of this motion. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Guzman.

Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes" and zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-101.

COMMITTEE REPORT

NO. 15-105 - ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE, AND  
RECREATION COMMITTEE:

Recommending the following:

1. That Resolution 15-102, entitled "AUTHORIZING THE GRANT OF A LEASE OF COUNTY REAL PROPERTY KNOWN AS MU'OLEA POINT, HANA, MAUI, HAWAII TO NA MAMO O MU'OLEA," be ADOPTED; and
2. That County Communication 13-219, from the Acting Mayor, be FILED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 15-105.

COUNCILMEMBER CARROLL:

SECOND.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Mr. Carroll.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I ALSO WOULD LIKE TO MOVE TO AMEND THE PROPOSED  
RESOLUTION ENTITLED "AUTHORIZING THE GRANT OF A  
LEASE OF THE COUNTY REAL PROPERTY KNOWN AS  
MU'OLEA POINT, HANA, HAWAII, MAUI, TO NA MO, NA  
MAMO O MU'OLEA", BY INSERTING A NEW "BE IT

RESOLVED" PARAGRAPH, AFTER THE CURRENT PARAGRAPH NUMBER "2" AND BEFORE THE CURRENT PARAGRAPH NUMBER "3", TO READ AS FOLLOWS: "THAT ON OR BEFORE MARCH 1 OF EACH EVEN-NUMBERED YEAR, NA MAMO O MU'OLEA SHALL PROVIDE TO THE COUNCIL A DETAILED REPORT, SHOWING COMPLIANCE WITH ALL COUNTY AND FEDERAL CONDITIONS DURING THE PRIOR TWO YEARS"; AND ENUMERATING, RENUMBERING THE SUBSEQUENT "BE IT RESOLVED" PARAGRAPHS ACCORDINGLY.

I have also submitted to the Members a copy of the amendments. Your on, your Committee met on August 4. I'm sorry, excuse me.

COUNCILMEMBER VICTORINO: Chair.

VICE-CHAIR GUZMAN: Discussion.

CHAIR WHITE: Yea, do we have a--

COUNCILMEMBER VICTORINO: Second.

CHAIR WHITE: Do we have a second?

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

CHAIR WHITE: Thank you. Okay, we have a motion by Mr. Guzman and a second from Mr. Victorino, and I'm not the only one making mistakes today. So, please proceed.

VICE-CHAIR GUZMAN: Thank you, Chair. Your Committee met on August 4, 2015, to consider a proposed resolution authorizing the grant of a 50-year lease for \$50 per year, of the 73.25 acres, cumulatively identified as Tax Map Key (2) 1-5-007:001 and 012, in Hana, Maui, Hawaii, to Na Mamo O Mu'olea, a nonprofit organization, for the purposes of managing, restoring, and maintaining the natural, cultural, historic, and marine resources of the property.

Your Committee notes that the property is historically significant, having indigenous and Native Hawaiian-introduced plants, important archaeological sites, and, and also agricultural terraces.



Your Committee further notes that the property was acquired by the County in 2005 for 3,008,000, with the assistance from The Trust for Public Land, the Office of Hawaiian Affairs, and the United States Department of Commerce, National Oceanic Atmosphere Administration, also known as NOAA.

By the Resolution 04-134, the Council authorized the acceptance of 2,011,800 from NOAA to assist the acquisition of the property. The NOAA finance assistance awarded the attached to Resolution 04-134 which incorporates by reference the County's proposal, entitled "Land Acquisition, Mu`olea Point, Hana, Maui, Hawaii," which also includes the NOAA Administrative Special Award Conditions. In brief, the conditions require that the County to make financial status, and Federal cash transactions, and performance reports to NOAA.

Your Committee notes that Section 3.36.090 of the Maui County Code requires Council approval of any grant of County real property.

The Mayor informed your Committee that the nonprofit has been actively managing the property since 2007.

In your Committee, we were, we had discovered and we worked on, along with the Corporation Counsel Office, Office, the following actions which took over a period of two years and, and also in compliance with NOAA's request: (1) the deed conveyed, conveying the property to the County was amended to reflect the property was acquired with Federal funds and any sale, lease, or encumbrance of the property is subject to the approval by NOAA; (2) a Notice of the Grant of Lease was recorded; and (3) modifications were made to the lease agreement.

The Deputy Corporation Counsel further advised your Committee that all parties are satisfied with the revised proposed grant agreement for the lease, and the revised proposed lease complies with the terms and conditions imposed by the Federal agency of NOAA.

The Deputy also noted that authorization of the grant of the lease will end *[sic]* the obligations of the County and Na Mamo to work together as partners, with the County monitoring the lease to ensure ongoing compliance with NOAA conditions and the Na Mamo reporting to the County.

The Director of Finance stated the Department supported the revised proposed resolution.

Your Committee recommended the revised proposed resolution be adopted, and the county communication be filed.

At this time, the Committee may, made its recommendations that Na Mamo Board cannot approve the revised proposed resolution. But, in the, in the interim, would have a meeting in August 12. I believe that we've heard from Mr. Crawford that they, the Board has approved, and is approve as to the lease, revised lease agreement.

Members, the floor amendment to you, before you, has a revised proposed resolution, that is approved as to form and legality by the Department of Corporation Counsel, that would add a new paragraph requiring Na Mamo O Mu`olea to provide the Council with a detailed report every two years showing compliance with all County and Federal conditions during the prior two years.

I respectfully ask the Members to support this amendment.

CHAIR WHITE: Thank you, Mr. Guzman.

And, and Members, the, the amendment is noted in County Communication 15-218, for your information.

Mr. Carroll.

COUNCILMEMBER CARROLL: I would just like to thank the Chair and the Committee for all the work they've done on this amendment to make this happen today. Thank you.

CHAIR WHITE: Thank you. Any further discussion, Members?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chair, I'm in support of the motion to amend by Chairman Guzman. I would say that one thing that I would ask of him as part of the requirements, is that Na Mamo O Mu`olea submit their verification of a nonprofit status. That is one of the issues that was in the past. I think that can be part of their compliance. They have to file annually anyway with IRS to get certification as a 501 valid organization for tax purposes. So, I think that can be done easily as part of their compliance requirements. And, again, I thank the Chairman for a job well done.

CHAIR WHITE: Thank you.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. And, I, I believe that one of the processes why it took, at least my Committee, the two years was making sure that the organization

was under 501C status so that they would be then in compliance with the Federal obligations. The, some of the conditions in the Federal level require that it has to be from a nonprofit. So, we also had to wait for documentation as well.

But, I, I again, I would like to stress that this had been ongoing for more than 10 years. So, I'm just very happy and, and very proud of the Committee to have pushed through and got this done. Thank you.

CHAIR WHITE: Thank you. Members, any further discussion on the motion to amend? Seeing none, all those in favor of the motion, please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Member, Measure passes with nine "ayes" and zero "noes".

Back to the main motion. Any further discussion, Mr. Guzman?

VICE-CHAIR GUZMAN: Nothing further.

CHAIR WHITE: Members, any discussion?

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. I would just like to say, again, thank you to Chair Guzman and the Committee for bringing this here at this point in time. And also to the Administration, and all of the others, NOAA, and everyone else that has made this possible. But, especially to the community. Ten years is a long time to follow something through. And I commend my community and all those that stuck with it all this time. Thank you.

CHAIR WHITE: Thank you.

Any, Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, again, I speak in support of the motion before the Members. As I stated earlier, I thank Chairman Guzman for his perseverance.

It was, you know, for me who's been able to sit and say I was part of the Council that purchased the property, my disappointment in the Administration's lack of appropriate follow through, and again, not following the appropriate process to get this type of requirement squared away from the beginning, okay. It shouldn't have taken ten years, and Mr. Guzman's Committee, to get this corrected. This should have been done right the first time.

And, just shows you, again, how this Administration, even whether it was Administration I or II, continues to ignore how to do it the right way. And, it disturbs me that Council continues to do corrective measures regarding this Administration. Thank you.

CHAIR WHITE: Members, any further discussion on this item?

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, yes, I commend the Committee for doing their diligent work. But, as Mr. Bob, Mr. Carroll mentioned, the community, because it has been a long time coming and I recall learning from this entity as in the west end for Honolua, and seeing how they progressed and what were they doing, and sort of they set the, they were a role model for others to follow suit.

And, so I congratulate them for their extreme perseverance in all of this, and thank them for their open and helpfulness in West Maui, pushing forward in saving Honolua too. So again, congratulations to their hard work, and all of ours to make all this happen. So, thank you. Very happy day for them.

CHAIR WHITE: Very good. Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes" and zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-102.

COMMITTEE REPORT

NO. 15-106 - ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,  
AND RECREATION COMMITTEE:

Recommending that County Communication 14-10, from Councilmember Mike White, on the matter relating to the Upcountry Dog Park in Makawao, Maui, Hawaii, be FILED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT RECOMMENDATIONS IN COMMITTEE  
REPORT 15-106.

COUNCILMEMBER COCHRAN:

CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Ms. Cochran.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. This matter was referred to our Committee, transmitted by you, yourself, earlier on in this year. No, I believe 2014.

Your Committee met on August 4, 2015, to receive a status report on the progress of the Upcountry Dog Park in Makawao, Maui, Hawaii.

Your Committee noted that the project, originated by interested members of the public in 2007, was formally initiated in December 2012, when the County designated a 7.5-acre parcel for a dog park next to Eddie Tam Memorial Center in Makawao. In 2013, the Department of Parks and Recreation agreed on a modified park plan for 3.25 acres in the same area.

As you can recall, Member, Chair White, we, you were a part of this Committee when that item was first brought in a little more than a year ago. It was a very dramatic and emotional Committee meeting. Very disappointed members of the community put forth their hard work and their frustrations. I'm very happy to say that the, our, your Committee worked with the Parks Department, and lit a fire, and, and worked very diligently with the, the new Parks Director, who I must acknowledge all the hard work of the Deputy Parks Director as well.

Your, your Committee also noted the Department of Parks and Recreation has worked in conjunction with the volunteer group, the Friends of the Upcountry Dog Park, to develop a well-maintained, self space [sic] for off-leash dog activity.

Your Committee discussed issues related to the completion of the park, including concerns about lack of adequate water for the park.

The Director of Parks and Recreation informed your Committee that the Department install the water line connecting to the Eddie Tam Memorial Center lines, so that there will be water spigots for drinking water and portable irrigation lines. And, the park will rely on natural rainfall for further irrigation.

The Director also informed our, our Committee that the, the park is scheduled to open on December 5, 2015, following landscape work in the months leading up to the opening.

Your Committee recommends filing of this communication. And, I respectfully ask for the support of the Members for this recommendation. Thank you, Chair.

CHAIR WHITE: Members, any further discussion on this item?

I would just like to add that, like the Mu`olea item that we heard just a minute ago, this has required a lot of heavy lifting by community groups. And, it's finally come to fruition. And, it's always exciting to get to this point. So, thank you very much for--

VICE-CHAIR GUZMAN: No, thank you, Chair.

CHAIR WHITE: --marshalling it along.

And, with that, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR  
WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

COMMITTEE REPORT

NO. 15-107 - HOUSING, HUMAN SERVICES, AND TRANSPORTATION  
COMMITTEE:

Recommending that Resolution 15-103, entitled "AUTHORIZING FORGIVENESS  
OF KA HALE A KE OLA HOMELESS RESOURCE CENTERS, INC.'S  
OUTSTANDING DEBT RELATED TO THE CONSTRUCTION OF THE HALE  
MAKANA O'WAIALE AFFORDABLE HOUSING RENTAL PROJECT," be  
ADOPTED.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER CRIVELLO: No.

COUNCILMEMBER BAISA: No.

COUNCILMEMBER CRIVELLO: It's Ms. Crivello.

COUNCILMEMBER VICTORINO: Ms. Crivello.

CHAIR WHITE: No, I understand that. But, Mr. Victorino--

COUNCILMEMBER CRIVELLO: Oh, Mr. Victorino had to recuse himself.

CHAIR WHITE: --before we do the motion, I was going to get Mr. Victorino the opportunity to--

COUNCILMEMBER VICTORINO: Oh, okay. You didn't warn me of that.

CHAIR WHITE: Sorry about that.

COUNCILMEMBER VICTORINO: I was going to do, I was going to do that afterward.

Mr. Chair, I would like to remove myself and recuse any voting on this matter because I am a Board member, a Vice-President of the Ka Hale A Ke Ola Homeless Resource Center. I have been a member of the Board for over eight and a half years. And, so with that being in mind, and because this has a financial, a direct financial result to the Board, I mean, to the facility itself, I would like with your permission and the permission of my colleagues, to be removed from discussion and as well as voting on this matter.

CHAIR WHITE: Okay, so you'll you be abstaining from the vote.

COUNCILMEMBER VICTORINO: . . . sir.

CHAIR WHITE: Thank you.

Now, Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATION IN HOUSING,  
HUMAN SERVICES, AND TRANSPORTATION COMMITTEE  
REPORT 15-107.

COUNCILMEMBER BAISA:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Ms. Crivello and a second from Ms. Baisa.

Ms. Crivello.



COUNCILMEMBER CRIVELLO: Thank you, Chair. The Council's Housing, Human Services, and Transportation Committee met six times during 2013 and 2014, to review the management of Hale Makana O'Waiale facility, and the operation and management of Ka Hale A Ke Ola Homeless Resource Centers, Inc.

On August 6, 2015, your Committee met to consider a proposed resolution to authorize a repayment plan purposed by Ka Hale A Ke Ola Homeless Resource Centers, Inc., to settle the outstanding debt to the County related to the construction of the Hale Makana O'Waiale facility on County-owned land, at 195 Waimaluhia Lane, Wailuku, Maui.

The facility is a low-income, 200 unit housing project. Ka Hale A Ke Ola proposed forgiveness of all past-due interest on the loan; quarterly payments of \$25,000 on the principal loan balance, which shall cease accruing interest; and a review of the loan repayment schedule and facility operations every five years to determine if loan payments can be adjusted upwards. The first proposed quarterly payment of \$25,000 accompanied the proposed repayment plan.

The original amount of the loan by the County for the construction of the, of the Hale Makana O'Waiale facility was approximately \$4,255,000.

According to correspondence from the Director of Finance, the County received payments between 1999 and 2003 totaling \$1,472,530. \$200,000 was applied toward the loan's principal, and the remainder was applied toward interest.

Your Committee noted it appeared the loan had been ignored for a number of years and it had taken your Committee's, and the Department of Housing and Human Concerns previous director, and Corporation Counsel's diligence to determine the loan status and investigate management of the project and repayment options.

Your Committee discussed the impacts of the outstanding debt on Ka Hale A Ke Ola's ability to maintain and reinvest in the property.

Your Committee also discussed County spending on homelessness, substance abuse, self-sufficiency, and rental housing programs.

Your Committee was informed of various recent operation improvements and initiatives at the facility, and that Ka Hale A Ke Ola has negotiated an end to the investment partnership with Sun America Housing Fund.

Your Committee noted the \$100,000 proposed for repayment annually could instead be invested by Ka Hale A Ke Ola into facility maintenance needs, the reserve fund, or to otherwise support the agency's mission.

Your Committee expressed renewed hope and support for the changes being made at Ka Hale A Ke Ola and the Hale Makana O`Waiale facility, and noted the importance of the work being done by the facility.

Despite the proposal to repay the remaining principal loan balance through quarterly payments of \$25,000 each, with interest only on the loan to be forgiven, your Committee believes it to be in the best interest of the County to forgive the entire outstanding debt consisting of both principal and interest related to the construction of the facility.

Your Committee recommended the resolution be revised accordingly. Your Committee voted 5-0 to recommend adoption of the resolution as revised.

I ask for the Council's full support of this motion on the floor.

CHAIR WHITE: Thank you, Ms. Crivello.

Members, any further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. With all respect to my colleague and her Committee, I am speaking in opposition of the motion.

I know this project for over 20 years, Mr. Chairman. And, all I can, at this point, I would just say though to the Executive Director Ms. Lowenthal and her current board, I want to commend them. I thought they did a very good proposal to the County within their control and their parameters on how to deal with this obligation, cause the, the County had to deal with its obligations.

You know, I work hard with my eight fellow colleagues to ensure fiscal discipline and integrity in what this County does. I don't work hard to wipe out and forgive debt. God does forgiveness. Budget Chairman remembers everything, okay.

So, let me put it this way. I think there's some merit to the proposal, but I don't think it's at this point in time. I think the Committee needs to reconsider this and look at the whole program. For the West Maui, I can see, eventually, us coming to terms with that. Because, if that is the next step, actually what is being asked of us is to

forgive over \$8 million, of what I assume was responsible people who had enough brains to sign a loan, a commitment of a loan.

You know, I can tell you my issues have been close to what I consider with previous ED's and certain board as criminal regarding this project. And, for me, Chairman, you know, take a look at the situation with the facilities. West Maui was never built out, so I can understand their ability to perform and get the numbers of revenues to deal with their expenses.

I view Waiale differently. I think the Board and the Director has made some adjustments. I still think they can make it so that it stays in the black. And I would be open to having them have the opportunity to show us what they can and cannot do. Cause I'm sure all the other organizations are watching how we perform or what we decide with this one.

So, for me, as your Budget Chair, am I going to consider next budget cycle, for grants to be \$4 million less? If we forgive this, can I be assured that at least maybe for 10 years Waiale will not come before the County asking us for money since we're forgiving them about 400,000 a year? What does the County get in return from an, a contractual agreement?

I think there's, we should give them that opportunity to perform as what they have proposed. Knowing their new ED, I expect good results. I expect the Board to continue its discipline in moving this forward. And then I will be, remain open to additional funding request. But, if this is the route we want to go, I can tell you, I'm going to be very narrow in what I will be open to come next budget cycle, very narrow.

But, I don't think this is the appropriate time for forgiveness. I think this is a time to support the organization, and see if they can work out the plan they have proposed to us. I think we owe that entity that opportunity, and not give it that easy out and say we're just going to wipe out a \$4 million loan. It's easy to be with the heart today. Who's going to help me find that \$4 million down the road? We've heard them before. We're going to ask for support pay, a tax increase. They never do, they never do.

I had plans for this \$4 million elsewhere. There's a lot of CIP we want in this County, a lot of operational improvements we want in this County. So, for me is, what is then the game plan? Forgive all \$8 million. Let's be honest with the taxpayers. Cause we got to go back and find a way to make up money to give someplace else now down the road. And, I hope we think about those things before we make this decision, Chairman. What is the end goal of this entity, or organization?

I have confidence in this new Board and in this new Director. If it was the same years ago, I'd be so adamant not to forgive, and, if we ever had a Council filibuster. That's how strong I feel about this issue, Chairman.

Money is not simply a thing that we just either wipe off our books or, it's, it disturbs me how some people look at money. To the tax base out there, works damn hard to pay their bills. Now, when they take loans, I take, I feel they take it just as seriously as I do. And, I have obligations that I have to take care of. I don't go to the bank, say, oh can you forgive my mortgage? It's obligations that was voluntary taken on. Nobody was forced to sign that agreement.

So, let's see how this goes, Chairman. Because I think we can come up with a better deal to support this entity and see how they're going to move forward, and then make the appropriate adjustments as we move along. I think the request for a five-year window, I can be very supportive. But, I think it's premature to forgive this entity of \$4 million at this point in time. Thank you, Chair.

CHAIR WHITE: Thank you.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, you know, I, I am agreeing in part with Mr. Hokama. I understand what he's saying. I, I don't like giving up \$4 million. And, a promise was made. And, as he said, you know, some of the actions of a previous, you know, previous people running the place, were very questionable. But, we now have a different Board, we now have a different management. And, we now have a different Council from when this, this was originally signed.

I true, too, want to talk about fiscal discipline. I am speaking in support of this. As far as the fiscal discipline, you know, if we were to, and, and, I'd hope to live as long as Mr. Hokama, if we were to wait for that \$4 million at 100,000 a year, we're looking at 40 years. So, if, if, if we're all around in 40 years, I, yea, we could do something with that \$4 million.

But, let's look at it this way. The organization paid almost \$1.5 million in interest alone, almost interest alone, mainly. So, they have been working on it, even prior. But, if we were to spend \$400 million, I'm sorry, \$400,000 a year, if this Council and this County were to spend \$400,000 a year on homeless issues, on, on affordable housing issues, could we have gotten as far as they did in, in the 10 years? I think it's a bargain. We got a great bang for the buck for \$400,000 a year.

You know, we are taking as, I think one of the testifiers said, we are finally taking a positive step for affordable housing. And, I think, like I said, it's a bargain at \$400,000 a year for the last 10 years, for what we're getting. Yes, there's some tweaks that need to happen a little bit, in that set up over there, the affordable housing.

But, we can work within that, with that through Ms. Crivello's Committee. So, you know, and, Mr. Hokama, too, said that this isn't, you know, other people are looking at us, watching. And, I agree, other people are looking at us and watching. And this is not a precedent. This is a one time, we looked at that on, on a case by case basis and we saw what can come out of this and what our investment was worth.

I think \$100,000 a year coming back to the County, while that's enough for, you know, maybe 100 feet of road extra, or some other projects, I think the fact that we spend \$25 million about a year on other nonprofits and other things that, that we, services that the County can't do as cheaply, I think the \$400,000 a year is more than well worth the investment. So, I'm supporting this. Thank you.

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. I support the motion on the floor. You don't hear the term very often for the common good. This is one of those things that affects everyone, whether you're on the top of the financial or bottom of the financial scale, whether you're on the top or bottom of the social scale. The actions that we take today will have a positive effect on everyone in this County. It's something that's necessary.

Doing something for the common good is not easy. Often it is expensive. It costs money. It costs everybody in this County money to do what we're doing today. But, the results, the results will be positive. We've seen other places that don't do what we're doing, that don't give this type of support. You can look at Honolulu and some places in our own State that are having such great difficulties. This is something we need to do and I think we should be proud that we're able to do it for our community. Thank you.

CHAIR WHITE: Thank you.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. And, I am very pleased to be here today to express my strong support for the motion on the floor. I have followed

this agency from its early, early, early beginnings. In fact, long before there was KHAO *[sic]*, there was Father Bob Turner's ministry at Puunene Church. And, so this, I'm not a stranger to what these folks are trying to do.

But, I am really, really excited that we are finally showing our commitment to help people who need help. You know, there but for the grace of God go all of us. Things happen to people; they get sick, they lose their insurance, they get hurt, something goes wrong and they find themselves in horrible situations. And this is how we step to the plate.

You know, there's so much emphasis now on how we deal with homelessness. And, no matter what we start thinking about today, it will be many, many years before we actually see reality. But, reality exists in Hale Makana O'Waiale, and I would like to give us, give it its strong support. Its been through a very difficult time. They've had a lot of challenges.

But, I have to say that the changes that I've seen go on with the change in management after the audit, and all of the work that was done by Ms. Crivello and her Committee, it's nothing short of amazing, to me; how many changes have occurred and how positive they have been. And, I have, I really want to support them. I want to get this debt off of their financial statements. It will lead to them being able to be much more credit worthy and more grant worthy. They will have more funding opportunities, and that means that our community will benefit.

When we had this in Committee, we had the Budget Director with us. And the Budget Director assured us that this was in no way going to affect the budget because it was not included in the budget. I would like us to take action today, up or down, yes or no. But, I definitely would like to see it be a yes, because for me, it sends the signal that we care. Thank you.

CHAIR WHITE: Any further discussion?

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. I'd like to raise a question of privilege. Just to, for clarification, was it 8 million we're talking about or 4 million? Because I, under the understanding it was only the 4 million. There's an out, 8 million outstanding, but this in particular forgiveness is for only 4 million--

CHAIR WHITE: Correct.

VICE-CHAIR GUZMAN: --or 8 hundred, 8, 8 million, correct?

CHAIR WHITE: It's not the \$8 million. That's the total if you include the Lahaina facility.

VICE-CHAIR GUZMAN: So, it's the 4 million that we're talking about. Okay.

Yea, so that, that was my understanding. And, this was, this was a very difficult process for me to go through because initially when the item came to Committee, it was actually to review the, the debt repayment plan. And, in the course of the Committee meeting, it, it changed on the floor to a right out forgiveness. And, I had raised some of the questions that Mr. Hokama had presented on the floor today. And, I use the term Quid pro quo, which was, basically what is the, if we forgive, then what does the County get in return?

And, one of the questions I also raised was, yea, just like Mr. Hokama, when they come back for every budget session for asking for appropriations, do we now put into account the amount that they were going to pay for the payment plan? I, whether it was 25,000 or 200,000 per year, do we now have that ability to say, look, we forgave you for that debt for the four million. And accordingly, if you had agreed to go through the debt repayment plan then, you know, you guys are saving actually, you know, whatever 200,000 per year because you're not paying for that plan, that debt. So, does that mean that we don't have to give them that, that amount? So, there, there would be some type of an agreement.

But, that being said, I looked at it in the big picture of things, which was we are in a housing crisis right now. Affordable housing is on everyone's frontal lobe. It's, it's, everyone's talking about affordable housing and, and homelessness, people are homeless. And, so I thought okay, eight million total, cut it in half, forgive the four million, I could live with that.

The, the straw that broke the camel's back, in my mind, was the separation or the termination of the relationship between the, the entity and the investment group which was the Sun America Housing Fund. And, I know that if they were still in that relationship, I would definitely say no today because I know that there is a profit entity out there that's generating or, or investment group that was a part of the loan process, the original loan process.

And, and, I know that, I believe earlier on in one of the, one of the six Committee meetings that we had under Chair Crivello's Committee, that discussion went on where the investment group somehow was involved in reaping some of the profits

that were involved. So, I had a real hesitation in moving forward if that investment group was still attached.

So, I feel comfortable on the conscious side. On the analytical side of me uncomfortable. But, I will vote yes with reservations on this, clearly because there's an additional 4 million that's outstanding. And, it'll be hard-pressed for me to vote yes on that, when that comes up. So, thank you, Chair.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, thank you, Mr. Guzman. I totally concur with his statements, and also agree with Mr. Hokama's opening comments. Back when it was managed by another, other people, it would have been a huge no on this. I'm still, it doesn't sit all that easy with me, but it was clarified during discussion in Committee about the West Maui debt that's owed, and that is not part of this which is clearly stated. So, I appreciate that.

I, I am looking at the light that Mr. Hokama shined on, and Mr. Guzman also brought up, is that in the upcoming budget then, are we to, should they be able to be a lot more sustainable in their efforts? And as Ms. Baisa mentioned, more grant funding worthy to garner more outside sources to be infused into their, you know, into their organization, thereby not having to put out as much County monies, so we can keep it here in our coffers to support our County needed efforts. So, those things, I think, are going to come back onto the table during our budget session in relation to the decision made here today.

And, we, you know, we mentioned that it was our, our desire that the savings realized by this forgiveness goes directly into Ka Hale A Ke Ola's mission. And, that's what we all want to see more of here. And, hopefully that's where the money saved will go to. And, so I'd like to make sure that it's noted and that it's set in clear language to us during budget time or what, whenever appropriate, how it's been utilized, and, what better, more services were created because of this forgiveness.

So, I did ask the question during Committee to our Corporation Counsel at the time, or maybe Budget Director at the time; does this affect, is this setting precedence for other loans of similar situations we have out there with other entities? And, according, it was, the answer was no, that we don't have such agreements with other entities out there. Cause then it would be like, well, how much millions of dollars are we going to forgive in the future?



So, this is a difficult one. But, I think in the end, the, the organization has provided such a needed service to this community. I think the new, the new people taking over are doing wonderful work, and appreciate that. And, would like to see us support them in their efforts because I think it's on a positive path. So, I will be in support of this. But, again, I stated, you know, sort of the, the, sort of concerns I do have still. But, overall, I'm here to support the measure. Thank you, Chair.

CHAIR WHITE: Thank you.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you. I thank my colleagues for speaking in support of this. And, I can understand where Member Hokama also is expressing his concerns. But, I think we all need to take back and answer the question; what does the County get in return? We will face some long-term challenges when it comes to affordable homes and homelessness. So, I can support this entity that this building was built, what, people would know how many years ago, and, it's not made of the best infrastructure, so there's constant repairs.

We are told and, and I accept this from our new Director that the entity that received the loan for the construction will use these, these payment fund, funding, payment funds, to be added into a reserve fund to repair and maintain the building which I think my first term Council approved \$500,000 for repairs at that time. The next two term, two years that I've been on, they and this new administration for the Ka Hale has not come back to ask us monies for repairs or maintenance of the facility.

However, we have two distinctive differences. We have the homeless resource centers that do come in to request grant monies to, to address homelessness and case management for our families and our, our children. And, you know, there's, like about, an emergency program: 715 individuals, including 154 children, transitional, about 750 individuals, including 275 children. And, and we know that there are many more homeless families that we are not truly addressing.

And, until we can say that we're not being barraged with \$41 million home sales, then we'll be able to take care of our families. So, what does the County get in return? I say, we will address those that are in need of our families of Maui County.

And, I, I just am so impressed with our Executive Director, our new Board, and the kind of commitment. I think Ms. Baisa will agree with me that working for a nonprofit, and scraping and burning the midnight oil, to try and find a funding that the nonprofit tries to serve is not an easy task.

So, I ask my Members again to please support this resolution. Thank you.

CHAIR WHITE: Thank you.

The Chair will just add that--

COUNCILMEMBER VICTORINO: Mr. Chair.

CHAIR WHITE: Yes.

COUNCILMEMBER VICTORINO: Even though I'm abstaining from voting, I do believe that I may speak to the matter--

COUNCILMEMBER BAISA: Yes.

COUNCILMEMBER VICTORINO: --if I am correct in my analysis. I will ask Corporation Counsel if that is correct in that statement, that I can speak to the matter, still abstaining from voting?

COUNCILMEMBER HOKAMA: Point of order. That's the matter of the body, not Corporation Counsel.

CORPORATION COUNSEL PATRICK WONG: Chair, I'd agree with Mr. Hokama, quite frankly.

CHAIR WHITE: The Chair is comfortable with you adding your mana`o if there are no objections.

MEMBERS VOICED NO OBJECTIONS.

COUNCILMEMBER VICTORINO: I would like to know that the body agrees to it, if there is a disagreement and if there's a--

CHAIR WHITE: Any objections to Mr.--

COUNCILMEMBER VICTORINO: --majority that disagrees then I will abstain from saying anything.

CHAIR WHITE: Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Seeing none, please proceed.

COUNCILMEMBER VICTORINO: Thank you. First of all I'd like to thank Ms. Crivello for bringing this forward. This is something that I've worked on for the last eight and a half years, with various entities and various Administrations, not so much the loans, but reestablishing the purpose of the facility itself.

And, I will say, if you had asked me four years ago, five years ago, would I have brought this forward, or would I have supported what was brought out here now, I would have told you no, because the inner workings at that time, and the management, was not sufficient. But, we had the foresight to have an audit of the facility and its management. And, the new management that has now, put in place, has worked extremely hard to implement many of the recommendations. And, I've sat there and watched this happen. I've also sat there and watched a different Board, not just by individuals, but by their beliefs and understanding of where we want to go, bring forward this matter.

But, more importantly, I think when I have to stop and say, I thank my colleagues for their mana`o and their support. And, I have Mr. Hokama, I, I grant you, you have some valid, valid points. But, I'm glad to say that this is a service, like all the other service we provide in this County, Mr. Chair, that is really needed. And, Maui has always been in the forefront of taking care of their own. Those people living there are people from Maui. They may have moved here, but they live here.

And, there is even some financial strain, as you heard from the testifier this morning, because they've had to raise the rents. And a four-bedroom now, is like the lady said, I think it was \$1,150 a month, up from 650 or 675, something like that. I believe there is financial strain, even as they become more self-sufficient. I believe there is challenges that are going to be evolving, but we, and the Board, and the County has said this needs to be done, and they are doing it.

And, I think this forgiveness is just one major financial . . . that will help not only the Board, but the facility and the entity to expand the horizon. Come budget time, as Ms. Crivello has mentioned, and I will remind everyone, a lot of the monies that we fund all our nonprofits, and including this entity, is for the less fortunate and the needy; not so much for the housing the we're referring to today. Those are the ones that are just coming out, Mr. Chair, that have, like the Women Helping Women said, they left a bad relationship and they need housing. They need transitional opportunities. They need the a, to be able to be self-sufficient.

And, I wish, and I know it's real hard, because I've heard and I've been a part of many individuals who have come up and told me, and told the Board, and told others, how this helped them get back on their feet, and today they are productive citizens; they're productive citizens. So, this is not just a taking, it's really a hands up to helping people get back on their feet and be productive citizen. And, this is why I can support all of the entities in this facility.

But, this debt started from Charlie Ridings and all the way through, has been a debate whether it was a grant, a debt, a grant. And, we've done all the research. We've determined it's a debt. I think a debt that if this County forgives, will really help take a big chunk and move our homelessness forward. We need more. We need a lot more. However, this is a first step.

So, I hope my colleagues, and I've heard most of them saying they support it. To those who don't--

CHAIR WHITE: Actually, Mr., I need to stop you there because you're, you're able to speak to the facts but not be--

COUNCILMEMBER VICTORINO: Okay.

CHAIR WHITE: --trying to persuade--

COUNCILMEMBER VICTORINO: Okay, thank you. Thank you. I will stop there. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

I, I'd just like to add that I, I have some of the same fiscal discomfort that Mr. Hokama has shared. But, at the same time, I've lived with a father who was the Treasurer, Mr. McBarnet's position, for the Institute for Human Services on Oahu. He was the Chair, or not the Chair, he was the Treasurer there for, I believe, a little over 40 years.

So, I watched the midnight oil that some of the Members have talked about. I watched his strain in generating revenues for the organization; for putting his heart and soul into making things happen for people that really didn't have much to look forward to, and given, give them some hope.

And, I, like many of you, look at the organization today with a very different perspective than I looked at the organization just two years ago. And, it's with that new perspective that I am comfortable supporting this measure as a way of saying

good going, we want you to keep moving in the right direction, we want you to keep doing the basic fundamental beneficial efforts that you've put into it thus far.

And, so with that, I'm, I'm okay giving up \$100,000 a year. Because I think we all believe we've got challenges way beyond what's easy. So, it takes all of us coming together like this, to make things happen in a way that's positive and looking, looking at the long-term prospects of those of us that live here on Maui.

So, it's with an admonition that, not an admonition, it's with the, the hope that the organization will continue to move in a very positive direction with the, the burden of immediate finances taken off their shoulders, and being able to look forward and look at the financial challenges that are beyond this. And, do their best to come together and put programs that will help all of us get rid of the homelessness problem and move in a positive direction. So, it's with that sentiment that I'm comfortable supporting this measure.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, again, with all respects to Chair Crivello and the other Members, on your comments and positions, I'm really, I said fine with that. I understand your comments, my colleagues comments. I understand their positions. And, but, for me, that's not the point, that's not the point. The point is about a agreement that was made voluntarily, and whether or not we're going to uphold those commitments.

So, one, you know, I, I know the sense of the Members. And, again, like I said, I appreciate, I appreciate the new ED and her new Board, and their willingness to make things work. And, that's why I thought their five year window to show and prove to this body the confidence to move forward, to me, it's we're denying that opportunity. Cause I will tell you now, I wish I, I had that in for the future.

But, since I will not have the ability to see their ability of integrity and commitment to move forward, I would just say, do not also disregard the more than half a million dollars, \$500,000, this entity also gets through discretionary funds every year. It's not just about the debt. This is about other monies that this entity applies for and receives from the County, through the Council's approved budget.

So, I will tell you, it's going to impact me, as your Budget Chair, on how I look at their request in upcoming cycles. I'm going to be very truthful. Because I think we do a lot with what we provide. You know, I understand the low-income issue. But, to me, we're not talking about that, that as, that shouldn't be considered as affordable. That is subsidized housing, let's call it what it is, subsidized. Somebody's going to have to

make up the difference, okay. And, ends up with Budget Committee to find out who we tax to pay for that subsidy. So, I'm sure I'm going to get eight great suggestions in budget cycle, who's going to be taxed to make up the subsidy? Because this is something we're going to have to deal with, Chairman.

My thing, again, Chairman, is I wish they were at a point where I could support it. They asked for that opportunity. I was happy to give them that opportunity. But, if it moves forward the way it's planning to move forward, then I will tell you, I will make my adjustments in Budget Committee. Thank you.

CHAIR WHITE: Thank you.

Members, any further discussion on this matter?

COUNCILMEMBER BAISA: Question.

CHAIR WHITE: Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, VICE-CHAIR  
GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBER HOKAMA.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes"; one "no", Mr. Hokama.

COUNCILMEMBER VICTORINO: Mr. Chair, Mr. Chair, correction.

I'm abstaining. Please.

CHAIR WHITE: Oh, I'm sorry. Thank you. Thank you for that correction.

Seven "ayes", one "no", and one, one "abstention". Mr. Hokama was the "no" and the "abstention" was Mr. Victorino. Thank you for that correction.

And, Mr. Clerk, I think it's time for us to take a break. So, we'll be in recess, Members, I'd like to keep it to five minutes. So, please be back here at 11:15. We're in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:07 A.M., AND WAS RECONVENED AT 11:15 A.M., WITH ALL MEMBERS PRESENT.)

CHAIR WHITE: This meeting of the Council of the County of Maui will please come back to order. Members, thank you for that quick break. And, we'll move on with committee reports.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, respective to Committee Report 15-107, that's RESOLUTION 15-103.

COMMITTEE REPORT

NO. 15-108 - LAND USE COMMITTEE:

Recommending the following:

1. That Bill 56 (2015), entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM THE R-1 RESIDENTIAL DISTRICT TO THE SBR SERVICE BUSINESS RESIDENTIAL DISTRICT FOR PROPERTY SITUATED AT 2241 WEST VINEYARD STREET, WAILUKU, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 15-148, from the Planning Director, be FILED.

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN LAND USE COMMITTEE REPORT 15-108.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

*(Councilmember Crivello was excused from the meeting at 11:17 a.m.)*

CHAIR WHITE: We have a motion from Mr. Carroll and a second from Mr. Victorino.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. On August 5, 2015, your Committee met to consider a request from Hula Maui LLC for a Change in Zoning from R-1 Residential District to SBR Service Business Residential District for a parcel consisting of 11,117 square feet at 2241 West Vineyard Street, Wailuku, Maui, Hawaii.

The Change in Zoning would make the property's zoning consistent with the designation in the Wailuku-Kahului Community Plan.

The property is owned by Hula Maui LLC. Offices have been authorized at the property by an existing Conditional Permit, initially granted Ordinance 2006 in 1991 and subsequently extended three times; most recently, Ordinance 3768 in 2010. According to the Department of Planning, there are four buildings located on the property, three of which are 500-square-foot residential structures and one that is a 1,800-square-foot building used for offices.

I ask for the Council's support on the Committee's recommendation. Thank you, Chair.

CHAIR WHITE: Thank you.

Members, any further discussion on this item? Seeing none, all those in favor, please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, HOKAMA, VICTORINO,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER CRIVELLO.

CHAIR WHITE: Measure passes with eight "ayes"; zero "noes"; one "excused", Ms. Crivello.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 56 (2015).



COMMITTEE REPORT

NO. 15-109 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending that Resolution 15-104, entitled "APPOINTMENT OF A MEMBER TO THE MOLOKAI PLANNING COMMISSION FOR THE COUNTY OF MAUI," be ADOPTED.

*Disapproving the appointment of Timothy Riley (replacing Sherry Tancayo) to the Molokai Planning Commission.*

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 15-109.

COUNCILMEMBER COUCH:

MR. CHAIR, I SECOND.

CHAIR WHITE: We have a motion by Mr. Victorino with a second from Mr. Couch.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Chair. I also would like to thank, at this time, Mr. Couch for taking the meeting on, on July 20 cause I was home with bronchitis and I would like to thank him for running that meeting.

*(Councilmember Crivello returned to the meeting at 11:19 a.m.)*

COUNCILMEMBER VICTORINO: And, at that meeting, your Policy and Intergovernmental Affairs Committee recommended disapproval of the Mayor's nomination of Timothy Riley to the Molokai Planning Commission by a vote of 6-0.

Your Committee notes that the Commission's role is especially important at this time, as review of the island's community plan is now underway.

Your Committee, Committee also expressed appreciation for Mr. Riley's willingness to serve on this Committee. However, your Committee had concerns as to whether Mr. Riley is amply familiar with the unique challenges facing Molokai.

With that being said, Mr. Chair, I, I respectfully request the Council's consideration of the motion as recommended in the report 15-109.

CHAIR WHITE: Thank you, Mr. Victorino.

Members, any further discussion on the item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-104.

#### COMMITTEE REPORT

NO. 15-110 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending the following:

1. That Bill 57 (2015), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES, RELATING TO SEWER LINE MAINTENANCE AND REPAIR AT THE LAHAINA CIVIC AND RECREATION CENTER," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 15-111, from the Director of Parks and Recreation, be FILED.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 15-110.

COUNCILMEMBER COUCH:

MR. CHAIR, I SECOND.

CHAIR WHITE: We have a motion from Mr. Victorino and a second from Mr. Couch.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Chair, at its meeting of June 29, 2015, by a vote of 7-0, your Policy and Intergovernmental Affairs Committee recommended that the proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES, RELATING TO THE SEWERLINE MAINTENANCE AND REPAIR AT THE LAHAINA CIVIC AND RECREATIONAL CENTER", by passing it on first reading.

The County Communication 15-111 is, I'm asking to be filed.

The proposed authorization that the Mayor will enter into is an intergovernmental agreement with DAGS to establish a maintenance program for the Lahaina Civic and Recreational sewer, Recreational Center sewer line.

The agreement provides that the sewer line maintenance and repair costs at the Civic Center to be shared proportionately by the State and the County, with the County paying 80 per cent of those costs.

I respectfully ask that this Council consider this motion and its filing. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes" and zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 57 (2015).

COMMITTEE REPORT

NO. 15-111 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending the following:

1. That Resolution 15-105, entitled "APPROVING THE INSTALLATION OF SIRENS IN THE COUNTY OF MAUI RELATING TO THE HAWAII STATE EMERGENCY OUTDOOR SIREN WARNING SYSTEM," be ADOPTED; and
2. That County Communication 15-127, from the Emergency Management Officer, be FILED.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Chair.

I MOVE THE, TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 15-111.

COUNCILMEMBER COUCH:

MR. CHAIR, I SECOND.

CHAIR WHITE: We have a motion from Mr. Victorino with a second from Mr. Couch.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Chair. At its meeting of July 20, 2015, by a vote of 6-0, your Policy and Intergovernment Affairs Committee recommended that the proposed resolution entitled "APPROVING THE INSTALLATION OF SIRENS IN THE COUNTY OF MAUI RELATING TO THE HAWAII STATE EMERGENCY OUTDOOR SIREN WARNING SYSTEM", be adopted.

And, that the County Communication 15-127, be filed.

This project is to install additional sirens in the County, is being funded by the State and is in, is it, and is in its first of three phases. The sirens will also be solar-powered, and can be heard at a range of approximately 1.5 miles, and will add the needed emergency coverages for this County.

I respectfully request the Council's consideration of this motion and the filing of the communication. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

Any further discussion, Members?

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I speak in support of the motion on the floor. I commend the State working with the County to increase sirens on County property.

I would just say that, on Lanai, I would hope the State would continue to look at our Manele-Hulopoe area. It is a growing area of resort activities, homeowners, as well as ocean-related businesses. It's a second gateway to the island from the ocean, and, and particularly from West Maui. And, I feel that it's an important area that also must be considered for future protection through a siren system.

So, again, I appreciate the Committee's work on this issue. Thank you.

CHAIR WHITE: Thank you.

Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-105.

COMMITTEE REPORT

NO. 15-112 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending the following:

1. That Bill 58 (2015), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII RELATING TO THE ACQUISITION OF A GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENT NO. 68 REPORT," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 15-183, from the Director of Finance, be FILED.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you again, Mr. Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 15-112.

COUNCILMEMBER COUCH:

MR. CHAIR, I SECOND.

CHAIR WHITE: We have a motion from Mr. Victorino and a second by Mr. Couch.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you. Again, at its July 20, 2015, meeting, by a vote of 6-0, your Policy and Intergovernmental Affair Committee recommended that the proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII RELATING TO THE ACQUISITION OF A GOVERNMENTAL ACCOUNTING STANDARD BOARDS STATEMENT NO. 68 REPORT", be passed on first reading.

The county, and also that County Communication 15-183 be filed.

GASB 68 requires that the County disclose additional information relating to employee pensions than has been previously included in the Comprehensive Annual Fiscal Report, CAFR, and that the report needed to obtain additional pension information.

Your Committee notes that the GASB 68 requirements will result in CAFRs reflecting County's unfunded liability relating to the employee pension, pensions, more accurately.

I request that the Council consider this motion and the filing of County Communication 15-183. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 58 (2015).

COMMITTEE REPORT

NO. 15-113 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending the following:

1. That Bill 59 (2015), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE OFFICE OF THE AUDITOR, STATE OF HAWAII TO AUDIT THE SCHEDULE OF ALLOCATIONS OF THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII (ERS)," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 15-184, from the Director of Finance, be FILED.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you again, Mr. Chair.

I MOVE TO ADOPT THE RECOMMENDATION IN  
COMMITTEE REPORT 15-113.

COUNCILMEMBER COUCH:

MR. CHAIR, I SECOND.

CHAIR WHITE: We have a motion from Mr. Victorino and a second from Mr. Couch.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you. Again, at, at its meeting of July 20, 2015, again by a vote of 6-0, your Policy and Intergovernmental Affairs Committee recommended the proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN



INTERGOVERNMENTAL AGREEMENT WITH THE OFFICE OF THE AUDITOR, STATE OF HAWAII TO AUDIT THE SCHEDULE OF ALLOCATIONS OF THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII, OR ERS", and by passing this on first reading.

The Committee's, also County Communication 15-184 be filed.

The County Auditor noted that the audit of schedule of allocation is needed to complete the CAFR, which is the audited by an independent auditor hired by the County. He explained the County's independent auditor needs assurances that the ERS data is reliable prior to auditing the CAFR, and obtaining the information compiled by the ERS actuary and the audited by the ERS independent auditor will meet these requirements.

I respectfully request the Council to consider the consideration of the motion, and the filing of County Communication 15-184. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 59 (2015).

Mr. Chair, proceeding with county communications.

COUNTY COMMUNICATION

NO. 15-217 - DAVID TAYLOR, DIRECTOR OF WATER SUPPLY,  
(dated August 6, 2015)

Transmitting the Department of Water Supply's Monthly Source Report and Groundwater Use Report for the month ending July 2015.

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair.

I MOVE TO FILE THE REPORT.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

CHAIR WHITE: We have a motion from Ms. Baisa and a second from Mr. Victorino.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Chair. This is just a routine report which is available for anybody who wants to take a look at it. Thank you.

CHAIR WHITE: Thank you.

Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

NO. 15-218 - DON S. GUZMAN, ECONOMIC DEVELOPMENT, ENERGY,  
AGRICULTURE, AND RECREATION COMMITTEE CHAIR,  
(dated August 18, 2015)

Transmitting a floor amendment to the resolution entitled "AUTHORIZING THE GRANT OF A LEASE OF COUNTY REAL PROPERTY KNOWN AS MU'OLEA POINT, HANA, MAUI, HAWAII TO NA MAMO O MU'OLEA", attached to Committee Report No. 15-105.

CHAIR WHITE: Is that item County Communication 15-218?

DEPUTY COUNTY CLERK: Yes, Mr. Chair.

CHAIR WHITE: I thought we just--

VICE-CHAIR GUZMAN: Chair.

CHAIR WHITE: Okay. Move to file?

VICE-CHAIR GUZMAN:

YEA, MOVE TO FILE.

Thank you. The matter is moot, thank you.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

CHAIR WHITE: Okay. We have a motion to file by Mr. Guzman and a second by Mr. Victorino.

Any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

*(See pages 39 through 45 for discussion and previous action.)*

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with county communications for referral.  
The following county communications are recommended for referral to the following Committees as noted.

NO. 15-219 - MIKE WHITE, COUNCIL CHAIR,  
(dated August 18, 2015)

Transmitting the following proposed resolutions entitled:

1. "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL IN CHRISTOPHER SALEM V. COUNTY OF MAUI, ET AL."; and
2. "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL FOR PATRICK WONG, IN HIS INDIVIDUAL CAPACITY, IN CHRISTOPHER SALEM V. COUNTY OF MAUI, ET AL.".

The recommended action is that County Communication No. 15-219 be referred to the Committee of the Whole.

NO. 15-220 - DON COUCH, COUNCILMEMBER,  
(dated August 12, 2015)

Transmitting a proposed resolution entitled "REFERRING TO THE PLANNING COMMISSIONS A PROPOSED BILL RELATING TO TRANSIENT VACATION RENTALS IN PLANNED DEVELOPMENTS".

The recommended action is that County Communication No. 15-220 be referred to the Planning Committee.

NO. 15-221 - ELLE COCHRAN, COUNCILMEMBER,  
(dated August 17, 2015)

Transmitting a proposed resolution entitled "URGING THE BOARD OF DIRECTORS FOR THE MAUI REGION OF HAWAII HEALTH SYSTEMS CORPORATION TO REQUIRE TRANSPARENCY REGARDING RATE SETTING FOR PATIENT SERVICES".

The recommended action is that County Communication No. 15-221 be referred to the Policy and Intergovernmental Affairs Committee

CHAIR WHITE: Okay. And, that's the end of those. Members, without objection, we'll refer those to the Committees as read by the Clerk.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you. So ordered.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with general communications for referral.

### GENERAL COMMUNICATIONS

NO. 15-9 - GRANT Y. M. CHUN, VICE PRESIDENT, A&B PROPERTIES, INC.,  
(dated August 14, 2015)

Submitting an annual status report in accordance with Condition 17 of Ordinance No. 3312, change in zoning from Interim District to R-1 Residential District and PK-1 Neighborhood Park District, Conditional zoning, for property situated at Haliimaile, Maui, Hawaii. (Haliimaile Subdivision)

The recommended action is that General Communication No. 15-9 be referred to the Planning Committee.

CHAIR WHITE: Thank you, Mr. Clerk.

Without objection, we'll refer that item to the Planning Committee, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with ordinances, second and final reading.

### ORDINANCES

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 52 (2015)

A BILL FOR AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE AND SPECIFYING CERTAIN TERMS OF NOT TO EXCEED SEVEN MILLION NINE HUNDRED TWENTY-NINE THOUSAND FOUR HUNDRED EIGHTY-FIVE DOLLARS (\$7,929,485) AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING BONDS OF THE COUNTY OF MAUI FOR THE PURPOSE OF REFUNDING ALL OR A PART OF CERTAIN OUTSTANDING USDA RURAL DEVELOPMENT LOAN OF THE COUNTY; AUTHORIZING THE DIRECTOR OF FINANCE TO DETERMINE CERTAIN TERMS OF SUCH BONDS; PROVIDING FOR THE RETIREMENT OF THE USDA RURAL DEVELOPMENT LOAN TO BE REFUNDED; AND PROVIDING FOR OTHER ACTIONS RELATED TO THE ISSUANCE, SALE AND DELIVERY OF SUCH BONDS (KIHEI POLICE STATION)

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: That was a mouthful. Thank you, Mr. Chairman.

I MOVE THAT BILL 52 PASS SECOND AND FINAL READING.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Hokama and a second from Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, first, my apologies to you and the Members. I mis-commented on Committee Report 15-99. This is the action that will be taken to refinance the USDA loans for the Kihei Police Station that will realize for the County, sufficient savings that this action is, I would say very responsible on the body's part. The previous was the 15-99, again, was, well, 14.93 million. And, I'm just doing this to correct the record, for a payment to EUTF.

And, and as part of the Finance Director and Budget Director's commitment that the County pay the first quarter to realize the high interest rates, that those funds through those trustees can get that the County cannot get under our current limitations of what we can invest in.

So, my apologies to the Members, again. I ask for your support to realize the savings for the County in this refinancing. And, I thank the Finance Director and Budget Director for their proposal.

CHAIR WHITE: Thank you.

Members, any further discussion on this item?

My recollection, Mr. Hokama, is that the savings is in the neighborhood of \$400,000 over the term of the, the USDA loan.

COUNCILMEMBER HOKAMA: Yea, it's between 4 and 500,000, Chairman.

CHAIR WHITE: That we're saving?

COUNCILMEMBER HOKAMA: Yea.

CHAIR WHITE: So, good on both the Finance Director and Budget Director.

COUNCILMEMBER HOKAMA: Correct. Good job.

CHAIR WHITE: Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 53 (2015)

A BILL FOR AN ORDINANCE AMENDING THE OUTDOOR LIGHTING  
STANDARDS RELATING TO COMPLIANCE DEADLINES, SHIELDING  
REQUIREMENTS, AND USAGE RESTRICTIONS

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

I MOVE TO PASS BILL NO. 53 (2015) ON SECOND AND  
FINAL READING.

COUNCILMEMBER COUCH:

SECOND.

CHAIR WHITE: We have a motion from Ms. Cochran and a second from Mr. Couch.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, currently, the County uses high-pressure-sodium lamps in all of its approximately 4800 streetlights, at a cost of over two million per year. The proposed bill will expand the types of lamps allowed for use in street lights, enabling the Department of Public Works to begin planning for replacement of the existing high-pressure-sodium lamps with a more energy and cost-efficient lamp type as ways to reduce costs.



The proposed bill also extends the deadline for streetlights to be shielded to January 1, 2020. The extension allows the Department on, an additional three years to shield the streetlights that are more difficult to retrofit. In addition, the extension will help save costs by delaying further shielding efforts while Department is evaluating a replacement lamp type.

Passage of this proposed bill is the first step in incorporating more energy-efficient lighting in the County streetlights. Before installation of a new lamp type can occur, the Department must amend its administrative rules to allow for the new lamp type.

So, I respectfully ask for this Council's support for the proposed bill. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Cochran.

Any further discussion, Members?

Mr. Victorino.

COUNCILMEMBER VICTORINO: Not so much a discussion, but a comment. If you would take the new airport access road, you will see some new LED lighting that has been put in by the State, which is very, very efficient, from what I was told, but also gives excellent lighting versus the fluorescent. So, if you get a chance, drive to the new airport access road. It has the new LED lighting that we're basically referring to in this, in this area. Thank you, Chair.

CHAIR WHITE: Thank you.

Any further discussion?

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Yes. My, my, I know, I'm sharing a lot of comment today. But, for Lanai, Chairman, I support Ms. Cochran and her Committee's proposal.

And, again, I'd just like to highlight for Lanai, the issue we have currently is the utilities installing streetlights that has not gone through our Public Works Commission for public review and comment. And, I'm getting a lot of complaints, especially about

unshield, or the unshielding or a lack of shielding on these newly installed streetlights.

So, again, I thank the legislation because it says legally installed. And, for Lanai, that did not go through the process, I'm surprised the utility who should know better, is installing streetlights in our community without going through the public process that our ordinance required, Chairman.

So, I bring this up because Lanai needs, wants to know why we don't do it, what is required for Maui on Lanai. And, it's a question I find intriguing why we end up in this predicament at many times, Chairman. So, I thank you for this opportunity to comment.

CHAIR WHITE: Thank you. Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 54 (2015)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-3  
RESIDENTIAL DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT FOR  
APPROXIMATELY TWO ACRES OF COUNTY-OWNED PROPERTY ON  
MAHALANI STREET, WAILUKU, MAUI, HAWAII,  
LEASED TO KA LIMA O MAUI, LTD.

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO PASS BILL 54 (2015) ON SECOND AND FINAL  
READING.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion by Mr. Carroll and a second from Mr. Victorino.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. The Change in Zoning would, would facilitate the renovation of a 2,500-square-foot building, for development of new office building, and the development of affordable housing on two-acres of County-owned property on Mahalani Street, Wailuku, Maui, Hawaii, leased to Ka Lima O Maui, Ltd.

The County granted the 50-year lease to Ka Lima O Maui, Ltd. on July 6, 2009. The lease allows the property "to be used solely for the purpose of enhancing lives through self-reliance for adults with disabilities who are economically disadvantaged by providing vocational programs, adult day care health programs, and residential housing opportunities, including the construction of up to three additional structures for the premises".

At its meeting of July 22, 2015, your Committee questioned whether the planning housing fits within the permitted uses for the proposed P-1 Public/Quasi-Public District zoning. The Planning Director said it is clear the proposed housing is related to the nonprofit organization's function and would be a part of its facility, and agreed to submit written response to the question.

On August 10, 2015, following the first reading of the proposed bill, your Committee received correspondence dated August 7, from the Planning Director, detailing his response. I have provided copies of the correspondence to the County Clerk and have asked that it be distributed at today's meeting. And, you should have a copy. The correspondence contains detailed analysis of the appropriateness of the proposed housing use as a quasi-public use allowed by Section 19.31.020, Maui County Code, in keeping with Ka Lima O Maui Ltd.'s mission.

I'd like to thank the Director for his response. And, I ask for the Members support of this motion. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Discussion? Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, I want to thank Mr. Carroll for passing out this response from the Department of Planning. I was the one that had the concern.

I just wanted it on the record that this is an okay use in Public/Quasi-Public, and, we now have it in writing. We also have legislative intent, so in case somebody in the future says, oh no that's not what they meant, we, it's everybody's intent that they can do their residential for their clients. So, thank you, Mr. Chair.

CHAIR WHITE: Thank you.

COUNCILMEMBER VICTORINO: Chair.

CHAIR WHITE: Any further discussion?

COUNCILMEMBER VICTORINO: Chairman.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Quickly, thank you, Chair. And, again, this is one of those examples of a long process. It says 2009, but we actually started this when I first came on in 2007. And, I'm happy to finally get this to come to fruition, Mr. Chair.

Housing for our very important citizens are, our intellectually challenged citizens, is so paramount in this community, along with everything else. I mean, we just don't have enough of anything. That's the, the facts. So, I'm glad that, and thankful Mr. Carroll has pushed this forward and, and that today it becomes reality and that we can start construction. Thank you, Mr. Chair.

CHAIR WHITE: Thank you.

Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with unfinished business.

### UNFINISHED BUSINESS

#### COMMITTEE REPORT

NO. 15-91 - ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE, AND RECREATION COMMITTEE:

Recommending the following:

1. That Bill 60 (2015), entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO ALLOW COMMERCIAL AGRICULTURAL STRUCTURES IN THE AGRICULTURAL DISTRICT," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 13-85, from Councilmember Elle Cochran, be FILED.

DEPUTY COUNTY CLERK: Mr. Chair, for the Members information, currently pending before the Council is a motion by Vice-Chair Guzman and seconded by Councilmember Cochran, to adopt the recommendations in Committee Report 15-91.

In addition, a motion has been made by Councilmember Carroll and seconded by Councilmember Baisa to amend the main motion, by amending the proposed bill attached to Committee Report 15-91, according to the amendment summary form distributed by Councilmember Carroll at the Council meeting of August 7, 2015.

CHAIR WHITE: Thank you, Mr. Clerk.

Before I call on Mr. Carroll, the, we had asked for responses from the Planning Department and the Corp. Counsel. I believe all of you have copies of the response from Corp. Counsel. And, I believe the, correct me if I'm wrong, Mr. Corp. Counsel, I

believe the Planning Department deferred to Corp. Counsel's opinion. Is that an accurate statement?

CORPORATION COUNSEL: Chair, I'm not quite certain that it's a deferral as opposed to a collective meeting between the two departments--

CHAIR WHITE: Okay.

CORPORATION COUNSEL: --and the consummation or the creation of the opinion that developed from the meeting between the two departments.

CHAIR WHITE: Okay. And, Members, is there a desire to have Mr. Wong walk us through any of that?

COUNCILMEMBER BAISA: No.

CHAIR WHITE: If, Mr. Guzman.

VICE-CHAIR GUZMAN: Chair, yea. I, I think that the, for me, the, the issue has been settled. I mean, my, the issue that I had brought forward was basically if, if the HRS 205 was passed, which it said that agricultural commercial structures can be, is a permissible use in agricultural district zones. And, so, if Hana were to be exempt from the ordinance that we have drafted through our Committee which is more restrictive than the State, then what is the default? Where does, where does Hana, do they then go to the State law or are they completely in limbo?

But, I, according to the opinion, it appears that the, we can exempt Hana from the ordinance because we can be more and more restrictive.

So, I, I, I agree with the Corporation Counsel's opinion, if that's what he wrote. And, so, my answer to the question has been answered. I think the only thing that has, is to be resolved is whether, as a body, this Council moves forward on the exemption.

I know that we have worked on this bill, initially introduced by Elle Cochran, as a Title 19 amendment for roadside stands in 2013. It was then referred to my Committee. I took it a step further and, and knew that the State had passed the commercial agricultural structures in . . . and worked very dilligently with the community for several meetings, and then passing it forward to the Planning Commissions. And, then from there, working with the Planning Department to get everything worked out, because no one likes regulations. We were being more strict. So, I needed to get the, the input from all, all, all, all sides.

And, so I think the restrictions that are in this ordinance are fair and reasonable to be implemented. It has the, the, as most, I wouldn't say most, but as usual, a lot of times, the State passes things, passes laws and, that are very vague, and do not give definitions. So, we had to create definitions to incorporate into our ordinance. One of the definitions was the, the, the commercial agricultural structures itself in the products, value-added. So, what do we do with that? We, in this ordinance, we, in there, it says only Maui grown products can be sold at these structures. And, by defining value-added, and speaking with various constituents, value-added is like, okay, you grow bananas on your property--

CHAIR WHITE: If I can.

VICE-CHAIR GUZMAN: Okay, sorry.

CHAIR WHITE: I'm sorry, we're still on the, the motion to--

VICE-CHAIR GUZMAN: Oh okay, right, to amend.

CHAIR WHITE: So, I, I--

VICE-CHAIR GUZMAN: Okay, so, I can get back to that later on.

CHAIR WHITE: --I initially called on you and I thought you--

VICE-CHAIR GUZMAN: I'm sorry.

CHAIR WHITE: --you were responding to Mr., Mr. Wong's, so--

VICE-CHAIR GUZMAN: Yea, I, I, I'm on a roll cause it's been a long journey.

CHAIR WHITE: I'd like to call, call on the maker of the motion. Sorry about that.

VICE-CHAIR GUZMAN: Sorry, Bob.

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. And, I thank the Chair, and the Chair of the Committee and the Council, for delaying this for two weeks and giving a chance to go back to Hana, and get more feedback on the proposed amendment.

At first, it was thought that there was a pretty general consensus, and that's why the amendment was brought forward. As you can see today, with testimony and other letters that came inside, the consensus does not exist. Since that consensus does not exist, if there is no objection, I would remove my amendment.

CHAIR WHITE: Withdraw your motion.

Any objections to withdrawing the amendment?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: No objections. Thank you.

COUNCILMEMBER CARROLL: Thank you, Chair. And, I would like to say to those that were supportive of the amendment and those that were concerned about other concerns with the bill, the Chair and, of the Committee, and yourself, and several others, have said over the period of time; if there are problems that are documented that come up after the implementation, there is no doubt that this Council can take actions, if any corrective action is necessary. And, I'd like to thank everybody for their input for all this time, and again, the patience that the Council has had in delaying this item until today. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Members, any, since we have no motion to amend, back to discussion on the, on the main motion.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, mine is more a question, so if, I would ask either Mr. Guzman, Chair Guzman, or if Mr. Wong might be able to respond. Does this in anyway grandfather current structures regarding roadside stands? And, if it is, and especially if they do not meet code on the minimum requirements for illegally permitted structure, what happens then?

CHAIR WHITE: Well, I'll ask Chair Guzman first, and then Mr. Wong, or Mr. Guzman.

VICE-CHAIR GUZMAN: Chair, Chair, I would defer the legal question to Corp. Counsel. I, I can speak on that, but I'd rather defer Corporation Counsel on the legal question. But, I can, after he finishes that, can elaborate more so on the second half of the question.



CHAIR WHITE: Thank you.

Corp. Counsel.

CORPORATION COUNSEL: Chair White, there's nothing in the current language of the proposed ordinance that addresses grandfathering. And, if it's not specifically spoken to, then it's not included.

COUNCILMEMBER HOKAMA: Again, Chairman, I appreciate that clarification because I'm just curious what happens to existing roadside stands that did not go through a permit process, especially if they're going to be selling to public. I think there's a greater test of requirements, including insurance requirements. So, again, I don't know if that's already part of the current. I know they have to file under agricultural zone, agricultural plan. And, so, you know, I know the, the County already requires certain documentation to verify the actual use, so I appreciate that.

Again, my only issue is, is this truly about agriculture? And, that's why my earlier issues regarding what, how does this impact our other zoning categories that have this permitted uses to deal with transactions of agriculture goods? You know, I'm always the one that would check with real property, see if there's any impacts. Is there any adjustments you need to do to other parts of the code for a more broad perspective of how it impacts either zoning or taxation in, in the larger scope of things, Chairman. And, and that's where my current, I would say, hesitation is currently. I'm not too sure how this impacts our other components that we granted them permitted uses within certain zoning categories. And, for me, it's troubling that if you do it long enough, it's a valid use. Well, I don't buy that premise at all. The law is the law. And, if you're not following, you're not in compliance, then you should be dealt with accordingly. Thank you.

CHAIR WHITE: Thank you.

Mr. Guzman, did you have? I, I thought when Mr. Hokama was raising his hand, you were raising yours.

VICE-CHAIR GUZMAN: I, I, I, I think that everybody understands the, the ordinance before us. I, I, my explanation is more for the general public so that they have a better understanding that this, this ordinance is really intended for legitimate agricultural operations. That's why there's an, a requirement for a farm plan to be submitted to the Planning Department along with their application. And the verification of that, that they are a legitimate operation is part of the, the nexus there.

The other portion was that, just to let everybody know the words "retail" was actually added in by the Planning Department as a, there was discussion in the Committee as to wholesale versus one on one sales. This was never, this bill was never intended to do wholesaling. This was, this bill was always intended to be one on one sales. So, just for clarification, I know that there's been a lot of questions about the word "retail". But, under the definition here, it's really a one on one sale of the products.

The products are also regulated in the ordinance itself. It has to be grown on Maui. Value-added can be added, but there's a percentage that is only allowed. Value-added meaning, yea, you're going to need flour to, to bake your banana bread; the bananas need to be grown on property.

And so, the size restrictions are also in place. Anything more than 1,000 square feet has to have a special use permit. Anything more than 300 square feet have to be registered.

There's also an affidavit and certification documentation that needs to be submitted along with the application to certify that you are selling products from Maui. And, so that is another restriction that enforcement can use to go, go into these structures and verify.

And, they do need to comply with permits. I, I believe the Public Works Department says that they need to file a declaration with the, with the Department when they build these structures. So, I, I really believe this is something that, that was crafted so that we would try to avoid any type of abuse, but no bill is perfect.

And, if ever East Maui, Hana, find themselves in a predicament that they need to amend this or come in for an exemption, then I think that's the time I'm, I'm open to hear. But, as far as what is before us, I believe it's, it's well drafted. It has been vetted.

Oh my God, it's, you know, and I have to thank this Committee, or at least Ms. Cochran for bringing this forward into my Committee, because it's been a real learning experience. It's been a long journey. It's, it's from taking a, a, an initial amendment and then going forward and going to the community, going to the districts and then working with the Commissions, and then me personally going to the Planning Department in a matter of, you know, two and a half years. It's just been an experience, that true legislation and every hurdle and obstacle that, that came, came.

And, through perseverance I learned a lot, and I, I thank our Committee for sticking with, with me on this one. And, I thank the community for all their hard work. And, so I ask this, this Council to please support this, this bill. Thank you.

CHAIR WHITE: Thank you. Any further discussion, Members? Seeing none, all those in favor signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICTORINO, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes" and zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 60 (2015).

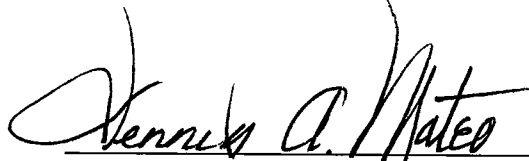
Mr. Chair, there is no further business before the Council.

CHAIR WHITE: Thank you very much, Members.

We are adjourned.

### ADJOURNMENT

The regular meeting of August 25, 2015 was adjourned by the Chair at 11:58 a.m.

A handwritten signature in black ink, appearing to read "Dennis A. Mateo", is written over a horizontal line.

DENNIS A. MATEO, COUNTY CLERK  
COUNTY OF MAUI, STATE OF HAWAII

My name is Martin Vasey and I am the owner of Hana Farms, a small 7-acre farm in East Maui where we grow a large variety of fruit and vegetables. Our biggest crops are bananas where we harvested over 3 tons last year. We harvested 2 tons of Papaya and about 1.5 tons of Lilikoi. But it is extremely difficult to support a small farm doing just wholesale, so we also focus on "value added" ag products. We make and sell Banana Bread, jams and jellies, and hot sauces at our roadside fruit stand. I am also on the Board of the East Maui Agricultural Association. And I am on the Board of the Hana Business Council.

I traveled to Wailuku to this meeting today for two reasons. One is that I strongly believe this bill will benefit many farmers in East Maui and I know and work with many farmers on Ag land that also favor this bill. The second reason I am here today is because there are quite a few farmers in East Maui who have not been part of this discussion. It seems to me that the way this bill is being handled or discussed in Hana is primarily in just the Hana Community Association and the Hana Advisory Committee. The usual email that goes out to the giant list of Hana community members notifying them of County meetings and the opportunity to remote testify did not go out for the last Council meeting where this Ag bill was discussed, and it didn't go out for this meeting either.

I know and have talked to many farmers on Ag land here in East Maui that are not aware of the conversations taking place or the County meetings and feel completely left out of the conversations and process.

I emailed our East Maui Council Member two weeks ago on 8/11/14 just after I learned that he had submitted a blanket exemption for all of East Maui. I, along with many other farmers, who depend on agriculture for a living, felt completely blindsided. No inclusion, no communication or warning. I am still waiting to hear back from him so that I can ask for a broader discussion with the people most directly affected by this bill, farmers living, and trying to make a living, on Ag land.

And let me say just one more thing about the proposed amendment to exempt East Maui. East Maui has significant hurdles in many ways and especially when trying to make a living doing agricultur, and I think it's still considered an Hawaii State Enterprise Zone. I could see exemptions for certain taxes or Government burdens or regulations. But the proposed exemption is an exemption of opportunity, targeted to a specific area only, and an area with many existing disadvantages. We need more opportunity in East Maui, not less.

I urge this Council to approve this bill and to vote no on the amendment to exempt East Maui.

FW: EAR-7

X DELETE ← REPLY ↩ REPLY ALL → FORWARD ...

mark as unread



**Morris Haole**  
Wed 8/12/2015 9:48 AM

To: County Clerk;

Bing Maps

+ Get more apps

Please place this email with Committee Report 15-91. If there are any questions, please give me a call.

Morris Haole Jr.  
Executive Assistant  
Office of Councilman Bob Carroll  
200 South High Street, Ste: 834  
Wailuku, HI 96793  
(808) 270-7246  
Fax: (808) 270-7247

RECEIVED  
2015 AUG 12 AM 10:01  
OFFICE OF THE  
COUNTY CLERK

-----Original Message-----

From: Martin Vasey [mailto:[mvasey@wireworkswest.com](mailto:mvasey@wireworkswest.com)]

Sent: Tuesday, August 11, 2015 3:01 PM

To: Robert Carroll

Subject: EAR-7

Hello Bob-

This is Martin Vasey from Hana Farms in Hana. I would like to talk a bit about EAR-7, which I have been following for probably over a year now. I am on the board of the East Maui Agricultural Association and also on the board of the Hana Business Council, both of which should have been more involved in getting information out about this proposal and to also encourage more involvement from both the Agricultural and Business community in East Maui to discuss with you the pro's and con's of this proposal. And I wish I would have been more active in encouraging a wider dialog before you had written your proposed amendment.

Even though that proposal was discussed in that community meeting and there were a number of people giving you feedback, did you have many discussions with actual farmers or residents of Ag land, and the members of the business community? In my discussions with my many neighbors and business associates I too heard several concerns about certain wording, but I also heard positive feedback and hope about the new types of opportunities changes in the existing code might bring. I don't think exempting East Maui from \*all\* of the provisions in this proposal is the right thing to do. I don't think a blanket rejection of everything is in the best interest of the East Maui residents, and I feel it would be unfair to many in our area that are already at a huge disadvantage.

Just to be clear, I am opposed to several specifics of that proposal, including the allowance of "and other" food items to be sold in up to 40% of the floor area. I don't want to see a 7-eleven operate on Ag land and I don't think many people do. I had a nice long talk with Dawn Lono (who I greatly respect and admire, and value her guidance) and I'm in agreement with her criticism of most of the aspects of this proposal, and she explained a little bit about meetings where it was discussed.

I would like to mention one specific item in the proposal that I think would really help my neighbor (on Ag land). The proposal would allow a fully enclosed structure to be used for retail, whereas the existing code states that it must be open air 50%. My neighbor has a large cacao farms, and has worked very hard over the years establishing the many cacao trees on his farm. They have learned how to process the cacao and now make a variety of chocolate products. I so admire them for what they have done, and what they will bring to Hana as far as jobs and community. But chocolate melts and you can't really have a viable chocolate retail outlet and having a small 200 square foot close building that people who come to the farm can step in to and taste and purchase chocolate does not seem like something that should be outlawed.

And I don't think East Maui should be exempt from being allowed that, while the rest of Maui get's that unfair advantage.

I would just hope that there can be some way to help revise the wording of EAR-7, rather than just throw the whole thing out because of specific clauses or wording that could be changed.

I really appreciate what you do, and all that you have done for Hana and East Maui. We are very fortunate to have someone like you working so hard for all of us. And I am committed to trying to help facilitate more discussion between not only me, but also the East Maui Ag Association and the Hana Business Council.

Thank you for your time, I really appreciate it.

Martin Vasey  
Hana Farms  
808-248-7553



August 25, 2015

Aloha Maui County Council,

As the Executive Director at Women Helping Women, I'd like to offer strong support of Ka Hale A Ke Ola and Hale Makana o Waiale as you decide to forgive the County's loan to this important organization on Maui.

Working with victims and survivors of domestic violence, I have seen how critical safe and AFFORDABLE housing is to these families. Simply put, housing equals safety. Ka Hale A Ke Ola, Na Hale o Wainee, and Hale Makana o Waiale are very often part of the safety plan we work on with our women. There are very few options for some of the women we serve and we continue to be grateful to all of KHAKO's programs and the choices they afford our families.

When you consider the thousands of Maui residents who have utilized just the Hale Makana o Waiale housing, I believe this is an investment the County of Maui can be proud of. In fact, I urge you to consider the exponential impact on our community this has had. People in housing can obtain and maintain jobs, children do better in school, families are strengthened. These are positive multipliers for a successful community.

I bring with me today additional written support for the forgiveness of this loan from staff members of Women Helping Women who could not be here today.

Thank you again for allowing us the opportunity to support this important decision to forgive the County of Maui's loan to Ka Hale a ke Ola.

Peace be the journey,

A handwritten signature in black ink, appearing to read "Stacey Moniz", written in a cursive style.

Stacey Moniz  
Executive Director

Maui  
United Way



1935 Main Street  
Suite 202  
Wailuku, HI 96793

Phone: (808) 242-6600  
Fax: (808) 249-8147

[www.whwmaui.net](http://www.whwmaui.net)



August 24, 2015

Subject: Committee Report 15-07, Hale Makana O Waiale

Aloha Maui County Council,

I am writing this letter in support of the Maui County Council's Housing, Human Services and Transportation Committee's recommendation to authorize the forgiveness of Ka Hale A Ke Ola Homeless Resource Centers' outstanding debt related to the construction of Hale Makana O Waiale affordable housing rental project.

Maui County has a very limited inventory of affordable rental units. Hale Makana provides affordable housing to more than 700 Maui County residents, including 350+ children. Its continued operation is critical to meet the needs of hard working individuals and families in our community. Your support and action will ensure Hale Makana has the resources available to care for the property and its continued viability.

Maui County is in desperate need of affordable rental units, so please support this recommendation so Hale Makana can continue to thrive and provide housing to those families in need.

Thank you so much for your consideration.

Sincerely,

Valerie Ching-Johnson  
Transitions Program Coordinator



1935 Main Street  
Suite 202  
Wailuku, HI 96793

Phone: (808) 242-6600  
Fax: (808) 249-8147

[www.whwmaui.net](http://www.whwmaui.net)

August 25, 2015

Aloha Maui County Council and Ka Hale A Ke Ola,

I am writing this letter to offer my support and to ask the Maui County Council to authorize the forgiveness of Ka Hale A Ke Ola Homeless Resource Centers' outstanding debt related to the construction of Hale Makana O Waiale affordable housing rental project.

Having worked for Ka Hale A Ke Ola, Hale Makana O Waiale and Women Helping Women, I have seen the positive and valuable impact this organization has provided for our community. I have experienced and witnessed the challenges and the successes that come with finding adequate and affordable housing here on Maui. I understand how difficult it is to provide for a family and have a place to live that is safe and affordable. I believe that Hale Makana and Ka Hale a Ke Ola provides exactly that to our families here in Maui County. Should the resolution be successful, Hale Makana O Waiale will be in a much greater position to invest in the much needed capital improvement projects and plan for future rehabilitation projects.

Thank you so much for your consideration,

Misty Bannister  
Children's Program Coordinator  
Women Helping Women



8/24/2015

Aloha Maui County Council Members!

Please accept this letter of support for Ka Hale A Ke Ola's Hale Makana O Waiale.

The terms “affordable housing” and “low income housing” are often conflated with each other. So, when developers are given strict “affordable housing” requirements for a portion of their development, there is a mistaken impression that this somehow addresses the “low income housing” situation.

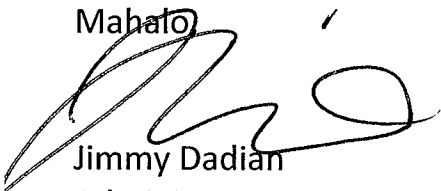
The reality is that there aren't nearly enough options for low income Maui residents and we need to support efforts specifically aimed at providing housing that is affordable for low income renters, such as Hale Makana.

Maui's other non-profits and social service agencies are heavily impacted by the lack of inventory. For example, housing issues are a big factor in the high occupancy rates at Women Helping Women's emergency shelter. Residents in that program are frequently frustrated by the difficulty in finding a rental to set up their own new, violence-free living situation. Unfortunately, this is also one of the reasons that victims of domestic violence might return to their abusers.

The immediate issue is to forgive some \$4 million that the County loaned out to finance this \$16.8 million project. I don't know if it could or should have been granted instead of loaned in the first place. However, it is abundantly clear that Hale Makana does not have enough cash flow to both repay the loan and provide for the long term sustainability of this property. I believe it would be cheaper in the long run to forgive the loan now and allow Hale Makana to pursue future grants and donations for upkeep, unencumbered by this debt.

Thank you for taking the time to consider this issue carefully. Your decision will mean a lot to the future of quality low-income housing in Maui County.

Mahalo

A handwritten signature in black ink, appearing to read 'Jimmy Dadian', written over the printed name.

Jimmy Dadian

Administrative Services Manager

Women Helping Women

August 24, 2015

Maui County Council

200 South High St

Wailuku, HI 96793

Dear Council Members:

I am writing to show my support of Ka Hale A Ke Ola Hale Makana O Waiale. They are an invaluable program to our community offering assistance to people suffering hardship on our island. Their mission to break homelessness is a great task needing the support of many. By forgiving the \$4 million loan, you will allow them to move forward in their efforts.

As a present employee of Women Helping Women, I have witnessed firsthand the people, including children that receive their services. Many of our clients who are victims of domestic violence, are in need of housing after they leave our shelter. With the high cost of rent and the small market of rentals on island, affordable housing is a continuous dilemma. I have worked closely with the women and children who leave the shelter to help provide them with furniture, household goods, and clothing through donations that come through our store. Witnessing the relief and security they feel, once placed in a safe home, is invaluable to helping them begin a new life. With the forgiveness of this debt, Ka Hale A Ke Ola will be better equipped to provide these people in transition with their needs and plan for future improvements.

In conclusion, I'm writing to express my full support in your consideration of removing this financial burden to this agency.

Sincerely,

Kari Seiler

Boutique Manager

Women Helping Women

Aloha Maui County Council,

August 24, 2015

It is with the deepest respect for the people of Ka Hale A Ke Ola's Hale Makana O Waiale, who have hope that the fate of their family's lives will be honored, that I take time to support overcoming the great challenges they are facing in maintaining a safe harbor to keep what is sacred, sacred, the aina and the po'e.

Please consider the families, children, and individuals who are dedicated and determined to live peaceably, courageously, and who are doing all they are able to in the wake of their personal and economic circumstances, to remain an integral part of our community and culture.

With Greatest Reverence,

Jennifer Esther Brown  
Store Associate  
Revive Boutique  
Women Helping Women



Tuesday, August 25, 2015  
EAR-7 Agenda item 15-91

Good Morning,

My name is Sydney Smith. I'm the president of The Maui Coffee Association and I own Maliko Estate Coffee Farm in Makawao. I'm also a member of The Ag Working Group.

I have spoken to many farmers over the past two weeks. Some had a question about the word retail as used in the language of EAR-7. As used in the ordinance it means a direct sale of agriculture products to a consumer. It does not mean the passage of this bill will lead to Macy's department stores opening up along the Road to Hana.

Other concerns voiced to me were; if Hana can be exempted from regulations, can Haiku be exempted? What about Kula? And is it possible to just pick and choose passages we don't like in the County Code and press our Council person to exempt us from those things?

I think the answer must be, yes, it is possible. But the larger issue is, should we?

Allowing Hana to have no regulation will actually lead to more growth. The state law has no limits on size of structure, there are no parking provisions, origin of produce can be anywhere in the state of Hawaii. So if the testifier from Hana on August 7th was seeking to limit growth in the Hana district, something I also support, an exemption will have the opposite effect.

We're all paddling the same canoe here in Maui County, whether we live in West Maui, Molo-kai, Lanai or Hana. And when a few paddlers on one side stop paddling you start spinning in circles and you never get anywhere.

Regulation is a good thing, as hard as it is to comply at times. I've had a few conversations with property owners here who feel they should have a right on their own property to do what they want to, whatever that may be. But we, as citizens wrote zoning laws to keep a munitions factory from being built next to a grade school. Something the most ardent libertarian would see as reasonable. I for one believe that in recent years the zoning laws have gotten too restrictive. The state law that EAR-7 is based on was a correction to overly stringent zoning. The state left it up to the Counties if they wanted to add back more restrictions and that's what EAR-7 does. With input from actual farmers and ranchers, this was written from a practical standpoint.

I still support EAR-7. I do not support setting a dangerous precedent where portions of Maui can opt-out of our County code.

Sydney Smith  
**Maui Coffee Association, President**  
[www.mauicoffeeassociation.com](http://www.mauicoffeeassociation.com)

808-572-0072 Home  
808-268-3646 iPhone  
Maliko Estate Coffee  
365 Kaluanui Rd.  
Makawao, Maui, HI 96768  
[malikoestate@hawaii.rr.com](mailto:malikoestate@hawaii.rr.com)

Aloha,

I'm Eve Hogan, a member of the Ag working group, the Maui Coffee Association, the Flower Growers Association and owner of The Sacred Garden on Maui. However, I am speaking on behalf of myself as a concerned Citizen of Maui County and I am speaking in favor of passing EAR 7.

The Sacred Garden is a retail agricultural business open to the public 7 days a week. I offer a beautiful nursery and peaceful sanctuary to the public free of charge as a community service and example of the Spirit of Aloha—a place where people can come, get a free cup of tea or hot chocolate and bask in the beauty of nature in a safe environment.

This is not a problem in the community; it is a service. It has become a beloved destination for tourists and locals alike, as well as schools, churches and non-profit organizations.

The Garden is free to the community, but it is not free to my husband and I. We have to pay A LOT of money to keep this garden open.

So I have tried to find creative and symbiotic ways to monetize this service.

I thought I could sell my friend Annette's locally made salad dressings and my neighbor, Maliko Estate's coffee. But currently, that is illegal. A farm is only allowed to sell on Ag land agricultural products produced from that farm.

**EAR-7 makes it legal to support neighboring farmers selling Maui County Ag rather than just my own.**

I thought I could add some garden-related souvenir items for people to purchase however, based on current zoning laws it is illegal to sell anything at all except for agriculture.

This is a beautiful concept but a near impossibility for economic survival...for several reasons.

- 1) The tourists cannot take any Ag items home with them due to agricultural laws, unless it is consumable on island.
- 2) For local business, as a nursery on a road in the middle of nowhere, I have to compete with the big box stores all of whom use agriculture as their "loss leader" selling their plants retail for the same price I can buy them from a wholesaler then making their money on all the other related items they sell. As a small business it is impossible to compete with them on price and still keep the doors open—unless I can do the same thing.
- 3) The local population also has access to every farmer entrepreneurial enough to post their goods on craigslist.

**EAR -7 makes it legal for a farmer to sell a regulated amount of logo and value-added items.**

Inspectors came and told me my retail sales area was illegal because it was 500 sq ft instead of 300 sq ft as the current zoning law reads. To combat this, the planning department told me that if I put a table outside, in front of the building and sold my plants from the table outside instead of the sales counter inside, then I would be complying with the law.

**EAR-7 makes the small, already existing retail space legal.**

So then I thought, as my prolific quantities of fruit were in season, that I would put out a small fruit stand outside on the road...in truth, one of the reasons I love the road to Hana is the fruit stands. It is a unique tradition in Hawaii to sell your fruit on an honor's basis by the side of the road. So I created and painted a small fruit stand and called it "Eve's Forbidden Fruit" thinking that was very funny because I thought the fruit stand may well be the only thing not, actually, forbidden. However, I was wrong. The planning department made it clear that my 18 square foot rolling fruit stand offering organic fresh fruit to my neighbors by donation, was indeed illegal and I had to remove it.

**EAR-7 would make my small fruit stand legal.**

When I complained to the County about the laws, I was told, "If we let you do this small retail business on your Ag land, Long's drug stores are going to pop up all over the North Shore." I started The Sacred Garden 10 years ago, and not one single long's drug store has popped up on the North Shore. They told me I have to hire a consultant and get a special use permit in order to do what I have been doing for the last ten years. The consultant quoted me \$20,000-30,000. Unaffordable for a free small garden.

**EAR-7 is not a free for all allowing people to do what none of us want to see done. However, EAR-7 is a huge step in allowing small farms to legally provide small services that make a big difference on Maui and I urge you to pass it.**

**Thank you.**

**Subject: Committee Report 15-07, Hale Makana o Waiale**

Please accept this letter in support of the Maui County Council's Housing, Human Services, and Transportation Committee's recommendation to authorize the forgiveness of Ka Hale A Ke Ola Homeless Resource Centers' outstanding debt related to the construction of Hale Makana O Waiale affordable housing rental project.

Hale Makana O Waiale provides affordable housing to more than 700 Maui County residents and its continued operation is critical to meet the needs of hard working individuals and families in our community. Your action will ensure Hale Makana has the resources available to care for the property and ensure its continued viability.

Thank you for your consideration.

Father Gary Colton

Member: Board of Directors for *Ka Hale A Ke Ola*

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2015 AUG 20 PM 2:21  
OFFICE OF THE  
COUNTY CLERK

RECEIVED

2015 AUG 24 AM 5:38

**JOHN BLUMER-BUELL**

Post Office Box 787, Hana, Hawaii 96713  
Telephone 808-248-8972 Email blubu@hawaii.rr.com

OFFICE OF THE  
COUNTY CLERK

August 23, 2015 (Public Testimony for Regular Council Meeting of August 25)

Maui County Council, Mike White, Chair and Office of the Maui County Clerk  
200 South High Street, Wailuku, Maui, Hawaii 96793  
Sent Via Email to Maui County Clerk County Clerk <[County.Clerk@mauicounty.us](mailto:County.Clerk@mauicounty.us)> and  
Maui County Council Maui\_County Council\_mailbox <[county.council@mauicounty.us](mailto:county.council@mauicounty.us)>

Subject: Public Testimony for Council Meeting of August 25, 2015. **UNFINISHED BUSINESS: COMMITTEE REPORT: NO. 15-91 - ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE, AND RECREATION COMMITTEE: FIRST READING of bill to allow as accessory uses and special uses within the County Agricultural District, commercial agricultural structures for the display and selling of agricultural products, including value-added agricultural products, subject to appropriate restrictions and standards; and**

Aloha Chair White and Council Members,

**I respectfully request the Maui County Council to send EAR Committee Report No. 15-91 back to the committee for further consideration for the following reasons;**

1. At your meeting of August 7, Maui Corporation Council Pat Wong stated he would need the whole meeting to go over the amendments offered by Council Member Carroll. **Those deliberations should properly take place in committee.** The legal opinion offered by corporation council dated August 18, 2015 has never been vetted in the EAR Committee. Some members of the council were concerned the amendments came forward in a regular council meeting. The public, particularly the Hana Community, have not had time to fully understand the implications of the amendments. Corporation Council's legal opinion has been available to the public for only a few days.



2. The Hana Community is not fully informed. As a result, there is confusion and conflict within the community regarding the proposal. EAR Chairperson Guzman acknowledged there was a division in community opinion when he held a “talk story” meeting in Hana. I respectfully ask you to consider important language in the **1994 Hana Community Plan Ordinance** which states, **“Encourage community-based dialogue regarding proposed land use changes in order to avoid unwarranted conflict”** (Page 14). That is still possible. I suggest the EAR Committee consider a meeting in Hana. Many of the choices and conflicts surrounding this bill are addressed in the 1994 Hana Community Plan.

3. The bill has confused many participants in the process. Attached is page 9 of the Maui Planning Commission Minutes of October 28, 2015. Please read the comments of Commissioner Hedani. Also attached is page 12 of the October 28, 2015, minutes. Please read the comments of Planner Alueta, Commissioner Medeiros and Commissioner Hedani. Also attached is page 56 of the December 11, 2014, Hana Advisory Committee minutes. Please consider the comments of Mr. Sinenci. The attachments are on pages 4, 5 and 6.

4. I request the council and corporation council make a public explanation of the Hawaii State Sunshine Law as it applies to Council Member Carroll NOT meeting with EAR Chair Guzman to resolve amendment issues. Member Carroll stated he could not bring the amendments forward prior to the August 7 meeting because of Sunshine Law prohibitions. This is not my understanding of the law.

I have decades of practical experience with the Sunshine Law while serving on the Hana Advisory Committee and Maui General Plan Advisory Committee (GPAC). County of Maui attorneys trained and advised us regarding the Sunshine Law. It is my understand two members can meet. Three cannot. Please clarify.

Perhaps, the conflict and confusion regarding the amendments brought forward on August 7, 2015, could have been avoided.

5. The following section of the bill needs additional consideration. The two out of three criteria test is unbalanced. All three tests should be met. I suggest revisiting the \$35,000 gross sales issues as part of the consideration.

“2. One farm labor dwelling per five acres of lot area. On the island of Maui, the owner or lessee of the lot shall meet two of the following three criteria:

a. Provide proof of at least \$35,000 of gross sales of agricultural product(s) per year, for the preceding two consecutive years, for each farm labor dwelling on the lot, as shown by State general excise tax forms and federal form 1040 Schedule F filings[;]\_b. Provide certification by the department of water supply that agricultural water rates are being paid if the subject lot is served by the County water system[; or],c. Provide a farm plan that demonstrates the feasibility of commercial agricultural production.”

**6. Based on past and current enforcement practices of the County of Maui and the State of Hawaii Health Department, this proposal will NOT be enforced and will enable lawbreakers.** Little to no enforcement is already demonstrated by the lack of enforcement regarding B&B and STR Vacation Rentals and illegal food establishments. I suggest the EAR Committee examine existing operations in the Hana agricultural districts and examine the impacts upon legal businesses in Hana Town. For example;

\* The Nahiku Marketplace is a commercial shopping center with numerous retail and food businesses. This is located on Agricultural Zoned land. There is no potable water. Is there an agricultural “farm plan that demonstrates the feasibility of commercial agricultural production”? Are there any health or building permits for this shopping center? Is there a Special Use Permit? I have talked with the owner and the planning department over a number of years. The answers are always evasive. Is this bill going to grandfather in what appears to be an illegal shopping center, appears at odds with the Hana Community Plan and appears to undermine the economic viability of legal businesses in Hana Town?

**Please consider these and additional factors in considering the bill.**

**Please consider these issues carefully in committee.**

Page 4

Sincerely yours,

***John Blumer-Buell***, Hana

## **ATTACHMENT 1**

### **Maui Planning Commission Minutes-October 28, 2014**

Page 9

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Just an opinion. I think Jim Smith is right when he says a lot of times we come in with stuff and we end up making everything so complicated that a normal person can't understand it. When I started off reading agricultural product stand the first change that they're proposing the language that exists there today to me is crystal clear. It means, a structure for the display and sale of agricultural products, period. Everybody can understand that. What this bill does is it. .. I don't know if it's intentional, but it confuses everything to the point where you can almost do whatever you want wherever you want on agricultural land as long as you comply with the terms of all of these provisions.

Page 12

Mr. Alueta: So they're trying to make it a little easier so you don't have to go through a Special Use Permit. You can just get the use allowed as an accessory use.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: I agree with Commissioner Hedani and Wakida. This is way too confusing. You know the Special Use Permit was put into place for reason and

people are trying to skip around it. I really don't understand what's going on. It was clear and then now they're trying to change everything and confusing a whole bunch of people and I disagree that the risk...the benefits outweigh the risk. You know, there will be a lot of abuse. I can see that you know. People are gonna wanna bring it up to the line, but then the line is not defined. You know, so until you guys clearly mark that line in the sand I don't like it.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I think the only thing that I found redeeming in this bill is on the last page where it says, "agricultural product stands that are 300 square feet or less in floor area are exempt from the registration requirements of this section," which means doesn't apply. So the true intent of an agricultural stand is still there and everything else to me is a bastardization of the agricultural stand concept. It's like we get all the time applications for bed and breakfasts in structures that are intended to be farm dwellings and they're now hotel farm dwellings. I mean it's ass backwards.

## **ATTACHMENT 2**

**Hana Advisory Committee minutes of December 11, 2014, Page 56 follow on page 6.**

Mr. Sinenci: Testimony.

Chair Carvalho: Okay, testimony.

Mr. Sinenci: I'll try to be quick. Yeah, I think you -- Shane Sinenci. I think you heard from Joe how this thing is just loaded with misinterpretations. They've thrown the whole kitchen sink inside this thing. And the council themselves don't know -- they want your input so, to me, as a board, you guys should send a strong message back to this council, edit 80% of it, and send strong 20% back. This thing is open ended to all kinds of stuff. And the reason why is I think we should follow our Hana Community Plan. Commercial is commercial; ag is ag. In here, there's an oxymoron, commercial agriculture, okay. I'm for supporting our farmers. They have their stands with what they're growing. You start to put commercial on our ag lots, the majority is out in Kaeleku, okay, what's going to happen? We're already seeing this. There's a -- it doesn't state clearly what is ag and what is commercial. We have a viable commercial area in our town. We're working towards getting Hina Mailalena back and have all our farmers go over there. That's our farmer's market in our town. We have Hana Town. We don't need other towns sprouting up in our ag districts, like it's starting already. This bill says that you can build -- Joe said 5,000 square feet, 1,000 square feet is 100-by-100, 100 feet by 100 feet; that's larger than this building right here. Square feet.

Ms. Lono: That's 10,000.

Mr. Sinenci: Well, like and 50% of it is you can buy products that are made in Hawaii. Sugar comes from Hawaii. You can cook anything and everything with sugar and you can pretty much sell and you can open up a restaurant, okay. What comes with restaurants? Bathrooms. This guys are building bathrooms already. What comes with bathrooms? Workers. WWOOFers. More housing. All on ag lots. You guys allow this to happen, you're going to be allowing more commercial space in our ag district. That's ag district over there. Yeah, we want to support farmers. They can sell their products. They can bring it to Hina Mailalena. As a community, we need to work about our commercial area. We have a viable town center. Come over there and sell your wares. Leave agriculture. Leave Kaeleku to agriculture. And also to our culture sites, you open this place up, more traffic, parking, we're already seeing it over there. We've got our hala forest; we get the heiau down there. That's all culturally sensitive places down there. And what are we going to do? We're going to be bringing more people, like the Nahiku Market Place, in a culturally sensitive area up there. Kaeleku is historically hundreds of years for us Hawaiian people, and you guys wanna -- and these guys want to turn it, give it okay to turn it into another commercial strip mall in the jungle? We don't want that over there. We want to build our town center over here. Let's work to getting our town center viable and how it used to be over here. Keep Kaeleku. You can have your little farm stands. Look, this thing, you need to edit some of this stuff out. Why is all that other stuff, fishing activities,

Committee Report 15-07, Hale Makana o Waiale

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Mary Lou Mellinger &lt;marylou.maui@gmail.com&gt;

Fri 8/21/2015 10:30 AM

OFFICE OF THE  
COUNTY CLERK

To: County Clerk;

*Aloha,*

*Please accept this letter in support of the Maui County Council's Housing, Human Services, and Transportation Committee's recommendation to authorize the forgiveness of Ka Hale A Ke Ola Homeless Resource Centers' outstanding debt related to the construction of Hale Makana O Waiale affordable housing rental project.*

*Hale Makana O Waiale provides affordable housing to more than 700 Maui County residents and its continued operation is critical to meet the needs of hard working individuals and families in our community. Your action will ensure Hale Makana has the resources available to care for the property and ensure its continued viability.*

*Thank you for your consideration.*

**A CUP OF COLD WATER, A COMMUNITY CARE VAN  
BOARD OF DIRECTORS**

*Keku Akana**Dr. John Decker**Jeanne Abe**Mary Lou Mellinger**Deb Lynch**Kit Hart**Jean Fiddes**The Rev. Linda Decker*

Committee Report 15-07, Hale Makana o Waiale -Supporting Testimony

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Cc: Stacy S. Crivello; 'Councilmember Mike White' <mike@mauicouncil.org>; elle.cochran@mauicounty.us; Don Couch;  
Don Guzman <attyguzman@cs.com>; Michael Victorino; Robert Carroll; ...

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**Joseph D. Pluta,  
RE Broker, Maui Island Specialist**

181 Lahainaluna Road, Suite I, P.O. Box 12278, Lahaina, HI 96761

E-mail: [Pluta@maui.net](mailto:Pluta@maui.net) Toll Free: 1-800-367-5637

FAX: (808) 661-7992 Local: (808) 661-7990

[www.mauidestination.com](http://www.mauidestination.com)**Subject: Committee Report 15-07, Hale Makana o Waiale**

Aloha County Clerk Danny Mateo, and Maui County Councilmembers:

Please accept and circulate this letter in support of the Maui County Council's Housing, Human Services, and Transportation Committee's recommendation to authorize the forgiveness of Ka Hale A Ke Ola Homeless Resource Centers' outstanding debt related to the construction of Hale Makana O Waiale affordable housing rental project.

This 200 unit affordable rental housing project built in 1997 that currently houses 751 Maui County Residents, including 356 children.

Hale Makana O Waiale provides affordable housing to more than 700 Maui County residents and its continued operation is critical to meet the needs of hard working individuals and families in our community.

Your action will ensure Hale Makana has the resources available to care for the property and ensure its continued viability.

We all know Maui County has a limited inventory of affordable rental units making the ongoing care and upkeep of this community resource even more crucial.

While I am submitting this letter as an individual, I know that the Board of Directors of the West Maui Taxpayers Association, Inc. (WMTA), has strongly supported the mission of the Ka Hale A Ke Ola Homeless Resource Centers in Wailuku and Lahaina.

The most important resource of Maui is it's people. Every prudent effort and action such as this will help to restore Hope for all the people in need in Maui County.

Warm Regards,

Joseph D. Pluta

Committee Report 15-07, Hale Makana o Waiale

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Robert A. Collesano &lt;Robert@MHAMaui.org&gt;

Fri 8/21/2015 11:04 PM

To: County Clerk;

OFFICE OF THE  
COUNTY CLERK

Attn: Maui County Council / Tuesday, August 25, 2015 / 9 a.m.

RE: Committee Report 15-07, Hale Makana o Waiale

Honorable Members of the Maui County Council:

Please accept this letter in support of the Maui County Council's Housing, Human Services, and Transportation Committee's recommendation to authorize the forgiveness of Ka Hale A Ke Ola Homeless Resource Centers' outstanding debt related to the construction of Hale Makana O Waiale affordable housing rental project.

Ka Hale A Ke Ola Homeless Resource Center, under its new administration, has made great strides to embrace the most needy in Maui County.

Hale Makana O Waiale, an indispensable part of the Homeless Resource Center, extends housing to both individuals and families beyond just their initial need for temporary, emergency housing.

Hale Makana O Waiale is the closest Maui program that we have which incorporates the idea of "Housing First" currently championed by the Federal Government.

**"Housing First** is an approach that offers permanent, affordable housing as quickly as possible for individuals and families experiencing homelessness, and then provides the supportive services and connections to the community-based supports people need to keep their housing and avoid returning to homelessness."

- See: **The United States Interagency Council on Homelessness /**

[http://usich.gov/usich\\_resources/solutions/explore/housing\\_first](http://usich.gov/usich_resources/solutions/explore/housing_first)

Hale Makana O Waiale currently provides affordable housing to more than 700 Maui County residents and 356 children.

Its continued operation is critical to prepare Maui County for Federal mandates, which are sure to come if we are to expect any future Federal funding for housing.

Your action will ensure Hale Makana has the resources available now to care for these most needy Maui citizens and your positive action will help prepare Maui County for the eventuality to provide services based on a "Housing First" model.

Thank you for your consideration of my recommendation to authorize the forgiveness of Ka Hale A Ke Ola Homeless Resource Centers' outstanding debt related to the construction of The Hale Makana O Waiale affordable housing rental project.

Respectfully Submitted,

Robert A. Collesano

Robert Collesano, CSAC, Exec. Director  
Mental Health America of Hawaii on Maui  
Toll Free: (844) MHA-Maui / (844) 642-6284

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[Robert@MHAMaui.org](mailto:Robert@MHAMaui.org) / [www.MHAMaui.org](http://www.MHAMaui.org)



re: testimony for Council Communication 15-219

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Burton Gould <burtongould@ymail.com>

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Action Items

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Please see attached letter and affidavit which are testimony concerning proposed resolutions (Council Communication 15-219) which are scheduled on the Council's Agenda for tomorrow 8/25/2015.

Thank you.

Sincerely,

Burton D. Gould

Burton D. Gould, Esq.  
The Law Offices of Burton D. Gould, LLC.  
2020 Main St. Suite 1010  
Wailuku, Hawai'i 96793  
808-269-7100  
burtongould@ymail.com

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## THE LAW OFFICES OF BURTON D. GOULD, LLC

Burton D. Gould  
burtongould@ymail.com

2020 Main St., Suite 1010  
Wailuku, Hawai'i 96793  
Phone: (808) 269-7100  
Fax: (808) 242-8288

August 24<sup>th</sup>, 2015

Chair of the Counsel Mike White  
200 High Street – 8<sup>th</sup> Floor  
Wailuku, HI 96787

Re: Council Communication 15-219

Dear Mr. White,

I am bringing to your attention that you have published an erroneous and false notice in Maui County Council communication 15-219, dated August 18, 2015, that my firm has filed a lawsuit in the Second Circuit Court for the State of Hawaii on behalf of Christopher Salem against the County of Maui, individual Directors, and the Department of Corporation Counsel, alleging fraud and violations of the Maui County Charter.

Mr. White, are you aware that the Department of The Corporation Counsel has also issued written and verbal communications to Maui County government officials falsely stating that my client has filed a lawsuit against the County of Maui? It appears that Corporation Counsel is engaged in unfair and deceptive practices by misleading public officials, the citizens of Maui County, and the Maui County Council in order to continue the illegitimate concealment of unlawful written agreements with developers that have furthered private interests at the expense of the taxpayers.

Your Council communication also contains findings from a “preliminary investigation” of the allegations against the individuals named in the above referenced “filed” complaint. I request that you please immediately disclose to the public and to my office;

1. What public officials or members of the Maui County Council were involved in the so-called investigation?
2. The scope of investigation, the findings, and the conclusions of the investigation.
3. Under what authority in the Maui County Charter was the investigation conducted?
4. Were conflicts of interest checks performed by the individuals who conducted the investigation and are they available for public viewing?

I request that you confirm that the individuals who performed the so-called investigation were provided a copy of the attached affidavit of Department of Transportation Director JoAnne Johnson Winer. Director Johnson Winer’s findings support my client’s allegations of numerous violations of law by The Department of Corporation Counsel and the Administration that have

caused immense financial injury to the public and to my client. Director Winer's willingness to step forth is admirable, and I believe that she represents truly authentic courageous leadership that all public officials can follow.

Mr. White, I am concerned that private meetings may have been conducted in violation of the Sunshine Laws. Otherwise, the proposed Council Resolutions, apparently and purposefully misuse the term "investigation" and propose false findings to mislead the Council, and the public. As such, the proposed Council Resolutions in Council Communication 15-219 raise serious legal, ethical, and procedural questions.

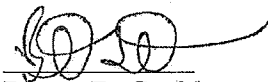
I am also concerned about the continuing conflicted influence by Corporation Counsel and the Department of The Corporation Counsel in this matter. It is our position that pursuant to the Supreme Court of the State of Hawai'i Rules of Professional Conduct, Corporation Counsel, Deputy Corporation Counsel, and the staff attorneys of the Department of Corporation Counsel are all conflicted from continuing to influence, and or advise the Maui County Council or the Administration regarding the issues raised by my client, a former executive assistant to the Maui County Council.

Finally, these resolutions seek to have the Maui County Council procure special counsel for an unfiled complaint as well the procurement of special counsel for Corporation Counsel Pat Wong in his individual capacity. It should be noted that this is prior to a legitimate and valid investigation by the Counsel into significant allegations of wrongdoing, and, or prior to a suit being filed, which we have been trying to avoid. It also seems odd that one of the resolutions seeks to procure special counsel for Pat Wong, alone, in his individual capacity, and not any of the Directors.

Please inform my office and your fellow members of the Maui County Council on Monday August 24<sup>th</sup>, 2015 who initiated, conducted, and was involved in the investigation referred to in Council Communication 15-219.

It continues to be my hope that the substantive issues relating to my client's claims may be addressed and resolved in an amicable manner, so that the interests of the County and my client may be best served.

Respectfully,

A handwritten signature in black ink, appearing to read "BD Gould", with a long horizontal flourish extending to the right.

Burton D. Gould

cc. Maui County Council members

cc. Office of Information Practices

enclosed: Affidavit of JoAnne Johnson Winer

AFFIDAVIT OF JO ANNE JOHNSON WINER

I, JoAnne Johnson Winer, state as follows;

1. I am a citizen of the United States of America, a resident of the County of Maui, State of Hawaii and I am over 21 years of age.
2. As a resident of West Maui, I was elected to the Maui County Council on November 2, 1999 and served for ten years until reaching term limitations and I currently serve as Director of Transportation for the County of Maui.
3. On or about 1999, I hired Kathy Kaohu as my executive assistant to the Maui County Council. Ms. Kaohu is currently an executive assistant to Maui County Council Member Don Guzman. She also assisted me in research on issues while on the Council and on issues related to "deferral agreements."
4. On or about late in 2000, my office was contacted by West Maui resident Christopher Salem regarding questions and concerns over the proposed design for a County of Maui Capital Improvement Project for Phase IV of Lower Honoapiilani Road relating to public safety, environmental impacts and view planes, since the project ran adjacent to his property.
5. In cooperation with Austin, Tsutsumi Associates, Inc. (project consultants for Phase IV) and County Project Manager Joe Krueger, Mr. Salem volunteered his professional knowledge and expertise to help create a more sensitive and safe redesign of the Phase IV roadway improvements, which I believe are still on file with the County.
6. As a member of the Maui County Council, I approved the expenditures for this Phase IV Capital Improvement Project during our annual budget hearings as a part of

our annual budget process. During this process, I understood from the information provided that the project would begin in 2002 and the construction would take about a year.

7. I do not believe that Council members were aware at the time the funding was approved that the Department of Public Works had failed to acquire the numerous land rights and necessary easements to initiate the field construction of the Phase IV roadway upgrades. To the best of my knowledge the Phase IV Capital Improvement Project is currently stalled and I am unclear if approvals and/or funding are in place.

8. In late 2000, Mr. Salem also brought to my attention outstanding obligations owed to the County of Maui from developer contractual agreements commonly known as "3 Lots or Less" roadway improvement "Deferral Agreements."

9. We met with Councilmember Riki Hokama to determine if his historical knowledge could help us to understand this process and how these obligations could still be outstanding. Councilmember Hokama was not aware of who was tracking these obligations and was also concerned about these obligations. He did not want to use public monies to pay for improvements that were the responsibility of either developers or owners.

10. Since Mr. Salem owned a property along Phase IV of Lower Honoapiilani Road he shared his firsthand knowledge of how this worked with us. He advised us that in accordance with terms of a "3 Lots or Less" subdivision agreement recorded on his land title by our attorneys in Corporation Counsel, the original developers deferred the cost of roadway and drainage improvements. Mr. Salem explained that this obligated

current and future property owners within the 3 Lot subdivisions to pay to the County of Maui their "pro rata" share of the Phase IV Capital Improvement Project.

11. I later learned from Mr. Salem's ongoing inquiries and notices to our County departments, the Department of Corporation Counsel, Department of Finance, and Department of Public Works that no department was assigned to track the collection and assessment of an unknown quantity of developers contractual financial obligations owed to the County of Maui. As a result, it was unknown how many of these agreements existed or how much money might be owed to the County of Maui. I believe I also received a letter from Public Works confirming that no records were being kept by their department of these agreements.

12. Through this process I also learned that subdivisions of 4 lots of more were required by ordinance to mitigate the impacts of their developments by installing complete roadway and drainage improvements along their frontages without any form of deferral or developer exemptions available.

13. I recall receiving a copy of a letter sent from Mr. Salem to Mayor Alan Arakawa alerting the administration that public funds were likely being used to pay for private developer's financial obligations without any form of reimbursement to the County of Maui, since deferral agreements were not being tracked.

14. From 2002 and for years thereafter, I continued to raise my concerns in annual Maui County Council budget hearings regarding how these deferral agreements actually obligated the County of Maui to pay for and incur private owner's financial obligations.

15. Prior to my tenure as a council member, I learned that the first three phases of Lower Honoapiilani Road had been upgraded and improved as County of Maui Capital Improvement Projects with County of Maui and Federal funds. However, no funds were provided through deferral agreement collections.

16. As I came to learn over time, on these 3 phases, the County of Maui paid with public taxpayer funds the entire costs of developer's roadway frontage and financial obligations without making any attempts to notice or collect upon the development debts owed.

17. My numerous inquiries to then Department of Public Works Director Milton Arakawa, requesting a list of developer's subdivisions that were subject to assessment and collection throughout Maui County, failed to achieve any results.

18. In 2007, out of frustration, I proposed legislation to the members of Maui County Council to Title 18 that was adopted (I think it was ordinance 3513 and Bill Number 77) by Maui County Council in 2007. I believed that by doing so, it would limit the expenditure of public funds on private developer's or owners financial obligations that had been ongoing since 1974.

19. On October 12, 2009, I proposed further language to a proposed Title 18 bill that would insure that financial obligations set forth in previously executed and recorded "deferral agreements" would be assessed and collected by the County of Maui.

20. The resulting Ordinance 3731 was enacted and insured that proper advanced Notice of Intent to Collect would be sent by the director authorized to administer the developer agreement at the commencement of future funding of roadway

Capital Improvement Projects and at the time land right of way acquisition was initiated by the County of Maui.

21. Ordinance 3731 insured that developers and their heirs would be obligated to pay a pro rata share of roadway capital improvements in order to prevent those costs from being shifted to Maui County taxpayers.

22. In compliance with the adopted ordinance, I recall that Director of Public Works, Milton Arakawa, then sent letters of Notice of Intent to Collect to multiple property owners along the Phase IV Capital Improvement Project of Lower Honoapiilani Road, including Mr. Salem.

23. Director Arakawa informed property owners that the County would ask them for a payment of the pro rata share of costs of the Phase IV roadway improvements as per the terms of their deferral agreements. Director Arakawa also notified the property owners that Phase IV construction would now commence in 2012.

24. Director Arakawa, I believe also informed the affected property owners that their pro rata share would likely be determined in consultation and agreement between other property owners within their subdivision. However, I could never find any authorization within our legislation that would allow such a notice and determination.

25. It was not until November of 2010 that Public Works Director Milton Arakawa finally disclosed to the County Council that he believed there were perhaps as many as 1800 open-ended deferral agreements affecting the land title of thousands of properties in Maui County that had been executed and recorded by Corporation Counsel. This was very disturbing to many of us.

26. I was also made aware by Mr. Salem that Director Arakawa had informed



the property owners in Mr. Salem's subdivision that 5 property owners from two separate overlapping 3 Lot subdivisions were obligated to pay a pro rata share of the 3 Lots or Less Subdivision Agreement. Mr. Salem asked me if I was aware of how this could happen and I advised him that I knew of no ordinance adopted by the Maui Council that would allow two separate overlapping subdivisions of the same parcel of land to twice defer their roadway infrastructure and financial obligations and I had no explanation as to how this could even happen.

27. In early 2011, I met with Mayor Alan Arakawa and Mr. Salem and I was instructed by Mayor to work with Corporation Counsel Attorney Ed Kushi and Mr. Salem to see if there was a possible formula or process for assessment and collection of the deferred developer financial obligations that the Mayor might present for consideration to the Maui County Council. The knowledge that both Mr. Salem and I had of the subject matter was why I believe we were asked to come up with some possible suggestions to the Mayor.

28. The effort to provide input never came to fruition since Corporation Counsel advised the Mayor that our input was not needed. I was also questioned by Corporation Counsel as to why I was even involved in this matter inasmuch as I was no longer a Councilmember. I explained that I had specific knowledge of the issue and felt that I could contribute to resolving the matter to the benefit of all concerned. I am aware that after Corporation Counsel countered Mayor Arakawa's directive, Mr. Salem took it upon himself as a private citizen to meet with Council members and their assistants to draft legislation to adopt a fair and reasonable process for collection and assessment of the developer's deferred financial obligations.

29. I read what I term the "Fairness Bill," prepared with assistance from Mr. Salem in cooperation with Council Member Elle Cochran's executive assistant Jordan Molina. The bill provided what I thought could be the start to achieving a fair and responsible process for collection and assessment of developer's deferred financial obligations. Mr. Salem advised that the bill also appeared to have support from members of the Maui County Council. I do not know what happened to the legislation beyond what I was told by Mr. Salem.

30. I am unaware if the Department of Public Works or Corporation Counsel ever addressed the concerns raised by Mr. Salem regarding the five owners with two overlapping three lot subdivisions. There should be some type of response as it does not appear to be allowed under our county ordinances. If it is not legal, then how can Corporation Counsel allow it to be permitted?

31. Corporation Counsel informed Mr. Salem, and I believe, during public testimony, our County Council as well as the general public, that releasing copies of the developer contractual agreements would be "an interruption of a legitimate government function". I did not agree with this interpretation.

32. I recalled reading in a Maui News article that Public Works Director David Goode publicly stated that Corporation Counsel deemed the "Fairness Bill" illegal. From what I understood, the "Fairness Bill" was reviewed by Council Services attorneys prior to being forwarded to the County Council for consideration and no issues regarding illegality were raised.

33. I question whether or not a written memorandum was ever issued by Corporation Counsel to the members of the Maui County Council explaining why the

"Fairness Bill" was unlawful or inconsistent with the 2010 Ordinance that was approved by Corporation Counsel. This was always a part of the standard procedure when I was on the Council.

34. During my years of public service as a Council Member of the County of Maui, the attorneys in Corporation Counsel always led me to believe that the "3 Lot or Less" contractual agreements drafted and recorded by the Department were collectable debts owed to the County of Maui.

35. Why the Fairness Bill that was submitted was not considered or an alternate proposal drafted so that monies owed to the people of Maui County were able to be collected? I was disturbed with the way Mr. Salem's integrity was questioned and how his motivation to resolve this issue was portrayed both privately and publicly during the discussions surrounding the bill.

36. I believe Mr. Salem's efforts in seeking responsible government over the past fifteen years were on behalf of the best interests of the citizens of Maui County. From what I personally witnessed, his dedication and commitment to the youth programs of West Maui has been exemplary despite the suffering his family has endured and continues to endure by bringing these issues into the public light.

37. It was recently brought to my attention that Public Works Director David Goode advised that the County of Maui "*may or may not*" be collecting upon the developer contractual obligations previously noticed for collection to property owners by Public Works Director Arakawa. I do not agree with this position as it contradicts the intent and stated language of ordinance 3731 that was publicly adopted by our Maui

County Council. Consistent with all legislation adopted by the Maui County Council, Ordinance 3731 was reviewed and approved by Corporation Counsel and is a law.

38. I have reviewed a letter from Director Goode, which was approved by Mayor Arakawa on January 9, 2012, wherein he stated his department has completed the cataloging of all known deferral agreements and it is his intent to work with the Department of Finance and Corporation Counsel to arrive at fair formula for calculation and assessment and notify the affected land owners of their required contributions.

39. I have also reviewed a letter from Director Goode on April 16, 2012, which provided the projected revenues from collection of developer deferral agreements on affected parcels along the South Kihei Road Capital Improvement Project.

40. I also reviewed a recent document showing Mr. Salem's analysis of the developer deferral agreements on residential, commercial, and industrial properties recorded by the Department of Public Works and Corporation Counsel throughout Maui County.

41. Why are public officials not bound to follow ordinance 3731 which required that Notices of Intent to Collect deferred developer contractual financial obligations were distributed? Why does it appear that the County is shifting private obligations to the public in violation of the County Charter?

42. An additional concern is the obligation to insure that there are no unfulfilled SMA Permit obligations wherein developers have failed to complete their roadway improvement and drainage mitigations that also may end up being paid for with County funds during Capital Improvement Projects. What is being done to insure that these obligations are being met and who is tracking them?

43. During a Maui County Council Infrastructure Management meeting on February 1, 2010, Attorney Galazin of Corporation Counsel informed the Council members of the different situations in which a developer may have to pay for roadway improvements and drainage mitigations, including obligations set forth in subdivision applications and SMA Permit studies and applications.

44. As I learned during the final years of my tenure as a Council Member, the Planning Department was not tracking SMA requirements that would insure compliance of developers in completing their SMA Permit roadway and drainage mitigations. They appear to rely solely on the integrity of developers and complaints from citizens to administer developer compliance.

45. I am deeply concerned that the SMA permitting process has become a means for private developers to skirt their infrastructure and environmental mitigation responsibilities, since enforcement may be absent or selective.

46. During my latter days as of member of the Maui County Council, I became aware that developers of Olowalu Mauka subdivision had failed to complete their subdivision obligations and environmental mitigations conditioned in an SMA Major Permit issued almost 10 years prior and as a result a lawsuit was filed by a private resident who was sold a property in the developers Olowalu Mauka subdivision.

47. My understanding was that the Olowalu subdivision received final subdivision approval from the County even though there were incomplete SMA Permit conditions. This occurred during the very same time period that Mr. Salem raised his concerns that developer's "3 Lots or Less" contractual agreements executed by Corporation Counsel were not being kept track of, assessed, or collected upon. Mr. Salem

also complained that his 3 lot subdivision was being re-subdivided a second time by Developer Lot 48A, LLC in violation of the Maui County Code and the SMA Permitting process.

48. As I learned from being called as a witness in legal arbitration proceedings involving a dispute over Developer Lot 48A, LLC's obligations to pay their pro rata share of the Phase IV Capital Improvements affecting the land title of Mr. Salem's property, the County Department of Public Works signed off on Developer Lot 48A, LLC's oceanfront subdivision with what I viewed as an incomplete and unfulfilled SMA Permit during the same time period whereby the same county department granted the Olowalu subdivision approvals with unfulfilled SMA Permit obligations.

49. I also learned that the Developer Lot 48A, LLC's attorney was working for the County of Maui Department of Corporation Counsel at the same time she was employed by Lot 48A, LLC in the legal proceedings. I saw nowhere in the procurement reports that this was disclosed to the members of the Council. I also learned Developer Lot 48A, LLC's SMA Permit studies were not provided to the arbitrator and they included the disputed roadway and drainage improvements to the frontage of Mr. Salem's property along of Phase IV of Lower Honoapiilani Road.

50. When I was informed that the former land planning firm of a county official was the same SMA consultant retained by the County of Maui to complete the SMA environmental studies and permitting for Phase IV of Lower Honoapiilani Road as well as being the SMA Permit consultant for the Developer Lot 48A, LLC for the re-subdivision of the "3 Lots or Less" subdivision I became extremely concerned. This is

the same subdivision in which Mr. Salem owned an original parcel of land abutting Phase IV of Lower Honoapiilani Road. To my knowledge there was no disclosure made to this effect.

51. I witnessed Mr. Salem's vehement protest and complaints that the overlapping subdivision of the original "3 Lots or Less" subdivision by Lot 48A, LLC required developer Lot 48A, LLC to obtain a SMA Major Permit through public hearings. My belief is that the one time exemption from an SMA Major permit was exhausted on the original 3 Lots or Less Subdivision. I still question how this could happen if laws are in place to protect the rights of the public?

52. Mr. Salem further argued that the engineering valuation for the Lot 48A, LLC's SMA permit underestimated the impacts of the oceanfront subdivision and costs associated with the development to intentionally avoid environmental studies and public review. Even after my inquiries to the Planning Department about this issue and also the SMA requirements I do not believe this has ever been resolved or investigated.

53. I was made aware that deferral agreements recorded by Corporation Counsel on Mr. Salem's property along with Director Arakawa's written notice to Mr. Salem caused residential appraisers and real estate brokers to refuse to represent his property for sale.

54. I was also advised that Mr. Salem attempted to pay the County of Maui a pro-rata share of the "3 Lots or Less" subdivision agreement to try to remove the open ended lien on his property during an open escrow even though it was developer Lot 48A, LLC's obligation to do so. I was told by Mr. Salem that Corporation Counsel refused to accept his payment or remove the lien on his property to facilitate the escrow.

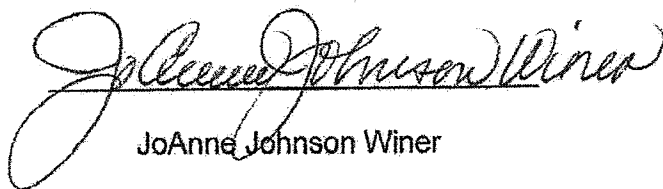
55. I remain dedicated to the people of Maui County and I truly believe that our citizens expect all public officials to protect their interests and act with integrity.

56. As a former member of the Maui County Council, I witnessed time and again where private citizens were forced to uphold the ordinances adopted by the Maui County Council to protect citizen's individual and public property rights, when this should in effect be the obligation of the County of Maui.

57. I have gone through Mr. Salem's lengthy and detailed timelines and also his analysis of what has taken place and I would agree that what he has uncovered appears to reveal a failure to enforce laws uniformly, collect monies due the County, adhere to SMA and subdivision laws and disclose possible conflicts of interest. These issues should be thoroughly investigated and resolved, which I believe Mr. Salem has attempted to do on a number of occasions.

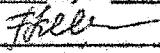
58. Mr. Salem should not be punished for shining the light on these issues but thanked for having the courage to bring them to the County in the first place.

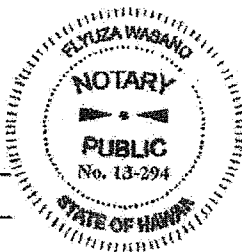
59. I am prepared to testify under oath to the events described in this affidavit to insure that the public's trust is fairly represented.

  
JoAnne Johnson Winer

State of Hawaii  
County of Maui

Sworn to and subscribed before me on  
day of AUG 11 2015

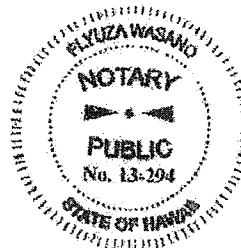
  
Flyuza Wasano  
Notary Public, State of Hawaii  
My commission expires 08/11/2017



13

Doc. Date: 8-11-15 # Pages: 14  
Flyuza Wasano Second Circuit  
Doc. Description: Affidavit

 8-11-15  
Notary Signature Date  
NOTARY CERTIFICATION





## Committee Report 15-07, Hale Makana o Waiale

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Paula Ambre &lt;Paula@themaufarm.org&gt;

Mon 8/24/2015 11:16 AM

To: County Clerk;

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**To: County Council / Housing, Human Services, and Transportation Committee****Subject: Committee Report 15-07, Hale Makana o Waiale****Date: August 24, 2015**

Dear Committee Chair Stacy Crivello,

Please accept this letter in support of the recommendation of the Housing, Human Services, and Transportation Committee to authorize forgiveness of Ka Hale A Ke Ola Homeless Resource Centers' outstanding debt related to the construction of Hale Makana O Waiale affordable housing rental project.

Hale Makana O Waiale provides affordable housing to more than 700 Maui County residents and its continued operation is critical to meet the needs of hard working individuals and families in our community. Your action will ensure Hale Makana has the resources available to care for the property and ensure its continued viability.

We thank you for consideration of this important matter, and encourage the Committee to act favorably on this initiative.

Aloha,

*Paula Ambre*

Paula Ambre, Executive Director  
The Maui Farm, Inc.  
P.O. Box 1776  
Makawao, HI 96768  
phone (808) 579-8271  
fax (808) 579-9055  
[paula@themaufarm.org](mailto:paula@themaufarm.org)  
[www.themaufarm.org](http://www.themaufarm.org)

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# Ho'omoana Foundation

33 Lono Ave., Ste 230, Kahului, HI 96732

**Subject:** *Committee Report 15-07, Hale Makana o Waiale*

August 21, 2015

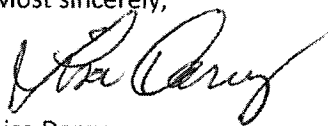
Aloha County Clerk Danny Mateo and Maui County Councilmembers,

Please accept this letter in support of the recommendation put forth on behalf of the Maui County Council's Housing, Human Services and Transportation Committee's recommendation to authorize the forgiveness of Ka Hale A Ke Ola Homeless Resource Centers' outstanding debt related to the construction of Hale Makana O Waiale affordable housing rental project. As a fellow non-profit who is knowledgeable about the current state of needs amongst its residents, this action will single-handedly project hope to the program and our community. I openly applaud this course of action and am deeply grateful for the recommendation.

As our community adjusts to more difficult day to day living circumstances related to higher costs of living, your awareness of supporting our most vulnerable residents struggling to reintegrate back into the community will not go unnoticed. Statistically, we know that providing supports to those who are able to bounce back into the community is a wise use of county resources. This is a significant win for our entire community even though it will seem like just another Tuesday to them!

Again, mahalo for strengthening our largest provider of care for Maui's residents in most need. As a sister provider for those unsheltered, Ho'omoana has watched KHAKO take giant leaps forward in the past year with more community integration. A critical element in people achieving more in life is hope, and this single action by you, the Maui County Council delivers hope like Alelele during a flash flood.

Most sincerely,



Lisa Darcy  
Executive Director

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## Hale Makana

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Maude Cumming <Maude@flcmaui.org>

Mon 8/24/2015 2:37 PM

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To: County Clerk;

Cc: Erin Lowenthal (Erin.Lowenthal@khako.org);

Subject: Committee Report 15-07, Hale Makana o Waiale

Please accept this letter in support of the Maui County Council's Housing, Human Services, and Transportation Committee's recommendation to authorize the forgiveness of Ka Hale A Ke Ola Homeless Resource Centers' outstanding debt related to the construction of Hale Makana O Waiale affordable housing rental project.

Hale Makana O Waiale provides affordable housing to more than 700 Maui County residents and its continued operation is critical to meet the needs of hard working individuals and families in our community. Your action will ensure Hale Makana has the resources available to care for the property and ensure its continued viability.

Thank you for your consideration

Mahalo

Maude L. Cumming

Executive Director  
Family Life Center  
95 S. Kane Street  
Kahului, HI 96732  
Phone: (808) 877-0880  
Fax: (808) 877-4443

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